COMPRENDIUM OF OIL AND GAS LAWS AND REGULATIONS
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THE ACT
PETROLEUM ACT 1969

An Act to provide for the exploration of petroleum from the territorial waters and the continental shelf of Nigeria and to vest the ownership of, and all on-shore and off-shore revenue from petroleum resources derivable therefrom in the Federal Government and for all other matter incidental thereto.

Commencement [27th November, 1969]

1. Vesting of petroleum in the State
   (1) The entire ownership and control of all petroleum in, under or upon any lands to which this section applies shall be vested in the State.
   (2) This section applies to all land (including land covered by water) which —
      (a) is in Nigeria; or
      (b) is under the territorial waters of Nigeria; or
      (c) forms part of the continental shelf or
      (d) form part of the Exclusive Economic Zone of Nigeria.
   [1998 No. 22]
   (3) In this section, references to “territorial waters” are references to the expression as defined in the Territorial Waters Act.
   [Cap. T5]

2. Oil exploration licences, oil prospecting licences and oil mining leases
   (1) Subject to this Act, the Minister may grant—
      (a) a licence, to be known as an oil exploration licence, to explore for petroleum;
      (b) a licence, to be known as an oil prospecting licence, to prospect for petroleum; and
      (c) a lease, to be known as an oil mining lease, to search for, win, work, carry away and dispose of petroleum.
   (2) A licence or lease under this section may be granted only to a company incorporated in Nigeria under the Companies and Allied Matters Act or any corresponding law.
   [Cap. C20]
   (3) The provisions of the First Schedule to this Act shall, in so far as they are applicable, have effect in relation to licences and leases granted under this section. [First Schedule]

3. Refineries
   (1) No refinery shall be constructed or operated in Nigeria without a licence granted by the Minister.
   (2) Licences granted under this section shall be in the prescribed form and shall be subject to the prescribed terms and conditions or, where no form is prescribed or no terms or conditions are prescribed, in such form or subject to such terms and conditions as may be decided or imposed by the Minister.
   (3) There shall be charged in respect of every licence granted under this section such application fees and such other fees as may be prescribed.
   (4) The provisions of this section are additional to the provisions of the Hydrocarbon Oil Refineries Act.
   [Cap. H5]

4. Control of petroleum products
   (1) Subject to this section, no person shall import, store, sell or distribute any petroleum products in Nigeria without a licence granted by the Minister.
   (2) Subsection (1) of this section shall not apply in respect of—
      (a) the storage, sale or distribution of not more than 500 litres of kerosene, and such other categories of petroleum products as may be exempted from the application of subsection (1) of this section by the Minister by order published in the Federal Gazette;
      (b) storage of petroleum products undertaken otherwise than in connection with the importation, sale or distribution of petroleum products.
   (3) Licences granted by the Minister under this section shall be subject to the prescribed terms and conditions where no form is prescribed or no terms or conditions are prescribed, in such form and on such terms and conditions as may be decided or imposed by the Minister.
   (4) There shall be charged in respect of every licence granted under this section such application fees and such other fees as may be prescribed.
   (5) The Minister may by order published in the Federal Gazette delegate the power to grant licences under this section to such persons or authorities in a State as he may deem fit.
(6) Any person who does, without the appropriate licence, any act for which a licence is required under this section shall be guilty of an offence and shall be liable on conviction to imprisonment for two years or a fine of ₦2000 or both, and, in addition, the petroleum products in respect of which the offence was committed shall be forfeited.

5. Offences on connection with the distribution of petroleum products

(1) If any oil marketing company in pursuance of any agreement or arrangement between it and any other oil marketing company borrows any petroleum products from any other oil marketing company and fails to return to that company an equivalent quantity of the petroleum products borrowed within two weeks of the date on which the petroleum products were borrowed, the first named oil marketing company shall be guilty of an offence and on conviction shall be liable to a fine of ₦100 per metric ton of the petroleum products concerned.

(2) If any oil marketing company at any time registers only unpumpable stock in respect of petroleum products stored in its depot at Apapa, Lagos, that company shall be guilty of an offence and shall on conviction be liable to a fine of ₦5000 for each day during which only unpumpable stock is registered.

(3) In this section, “oil marketing company” means any company in respect of which a marketer’s licence has been granted by the Minister under section 4 of this Act.

6. Price control

(1) The Minister may by order published in the Federal Gazette fix the prices at which petroleum products or any particular class or classes thereof may be sold in Nigeria or in any particular part or parts thereof.

(2) The Minister may by notice in writing require any person appearing to him to have or to be likely to have access to information which is relevant to the fixing of any prices of the kind mentioned in subsection (1) of this section to supply that information to the Minister, and any person so required shall be legally bound to use his best endeavours to supply the information accordingly.

7. Rights of pre-emption

(1) In the event of a state of national emergency or war the Minister shall have the right of pre-emption of all petroleum and petroleum products obtained, marketed or otherwise dealt with under any licence or lease granted under this Act.

(2) The provisions of the Second Schedule to this Act shall have effect in relation to the right mentioned in subsection (1) of this section. (Second Schedule)

(3) Any person who without reasonable excuse (the burden of proof of which shall lie on him) fails to comply with a requisition made by or on behalf of the Minister under paragraph 1, 2 or 7 of the Second Schedule to this Act, or fails to conform to or obey a direction issued by the Minister under paragraph 8 of the Second Schedule to this Act, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦2000. (Second Schedule)

(4) Any person who obstructs or interferes with the Minister or his servants or agents in the exercise of the powers conferred on the Minister by paragraph 8 of the Second Schedule to this Act shall be guilty of an offence and on conviction shall be liable to a fine not exceeding ₦200 or to imprisonment for a period not exceeding six months, or to both.

(5) The Minister, may, for the purpose of subsection (1) of this section, advise the President to declare a state of national emergency if the Minister is satisfied that, as a result of the low level of availability of petroleum and petroleum products—

(a) there is an actual breakdown of public order and public safety in the Federation or any part thereof; or

(b) there is a clear and present danger of actual breakdown of public order or public safety in the Federation or any part thereof.

(6) The President may, on receiving the advise of the Minister under subsection (5) of this section, declare a state of national emergency under the provisions of the Constitution of the Federal Republic of Nigeria 1999, for the purpose of subsection (1) of this section, if he is satisfied that it is necessary to do so.

8. Powers and duties of public officers

(1) The Minister —

(a) shall exercise general supervision over all operations carried on under licences and leases granted under this Act;

(b) shall report annually to the Federal Government on the progress of the oil industry in Nigeria;

(c) shall have access at all times to the areas covered by oil exploration licences, oil prospecting
licences and oil mining leases, and to all refineries and installations which are subject to this Act, for the purpose of inspecting the operations conducted therein and enforcing the provisions of this Act and any regulations made thereunder and the conditions of any licences or leases granted under this Act or under any corresponding law for the time being in force in Nigeria;

(d) may arrest without warrant any person whom he finds committing, or whom he reasonable suspects of having committed, any offence under this Act or any regulations made thereunder, and shall hand over any person so arrested to a police officer with as little delay as possible;

(e) may by notice in writing require the holder of a licence or lease granted under this Act or any contractor working for the holder (or any servant or agent of the holder or the contractor) to appear before him at a reasonable time and place to give such information as he may require about the operations being conducted under the licence or lease, and every person so required to appear shall be legally bound to comply with the notice and give the information;

(f) may direct in writing that operations under a licence or lease granted under this Act shall be suspended in any area until arrangements have been made which in his opinion are necessary to prevent danger to life or property;

(g) may direct in writing the suspension of any operations which in his opinion are not being conducted in accordance with good oil field practice; and

(h) may direct in writing the suspension of any operations where in his opinion a contravention of this Act or any regulations made thereunder has been or may have been or is likely to be committed.

(2) The Director of Geological Survey shall have access at all times to the areas covered by oil exploration licences, oil prospecting licences and oil mining leases for the purpose of inspecting geophysical and geological operations therein.

9. Regulations

(1) The Minister may make regulations—

(a) prescribing anything requiring to be prescribed for the purposes of this Act;

(b) providing generally for matters relating to licences and leases granted under this Act and operations carried on thereunder, including—

(i) safe working;
(ii) the conservation of petroleum resources;
(iii) the prevention of pollution of water courses and the atmosphere,
(iv) the making of reports and returns (including the reporting of accidents);
(v) inquiries into accidents;
(vi) the keeping and inspection of records, books, statistics, accounts and plans;
(vii) the measurement of production, and
(viii) the measurement of crude oil delivered to refineries.

(c) regulating the construction, maintenance and operation of installations used in pursuance of this Act;

(d) regulating refineries and refining operations, and, where two or more refineries are in operation, specifying—

(i) the proportion or quantity of crude oil to be supplied to each refinery,
(ii) the share of each refinery in the total market, and
(iii) the prices of refinery products;

(e) regulating the importation, handling, storage and distribution of petroleum, petroleum products and other flammable oils and liquids, and in particular (without prejudice to the generality of the foregoing)—

(i) prohibiting the importation or exportation of petroleum or petroleum products except at specified ports or places;
(ii) prescribing the notice to be given (and the person by whom the same shall be given) on the arrival at a port of a ship carrying petroleum or petroleum products as cargo;
(iii) defining dangerous petroleum and dangerous petroleum products, prescribing anchorages for ships carrying dangerous petroleum or dangerous petroleum products as cargo and requiring those ships to proceed to and remain at those anchorages;
(iv) regulating the loading, unloading, transport within a port, landing, trans-shipment and shipment of petroleum and petroleum products;
(v) providing for the licensing of lighters and other craft to carry petroleum and petroleum products within a port;
(vi) prescribing conditions and restrictions to be imposed upon vessels arriving at a port after having carried petroleum, petroleum products, dangerous petroleum or dangerous petroleum products;

(vii) providing for the examination and testing of petroleum and petroleum products, and prescribing the tests to be applied to ascertain its flash point and the method of applying those tests; and

(viii) subject to subsection (2) of this section, regulating the transport of petroleum and petroleum products, prescribing the quantity of petroleum and petroleum products which may be carried in any vessel, cart, truck, railway wagon or other vehicle, the manner in which they shall be stored when being so carried, the receptacles in which they shall be contained when being so carried and the quantities to be contained in those receptacles, and providing for the search and inspection of any such vessel, cart, truck, railway wagon or other vehicle;

(f) conferring or imposing on public officers for the purposes of this Act powers and duties additional to those conferred or imposed by section 8 of this Act;

(g) where paragraph (a) of this subsection does not apply; prescribing—
   (i) forms to be used for the purposes of this Act, and
   (ii) fees to be charged in connection with the operation of this Act (including, without prejudice to the generality of the foregoing, fees for the giving of any permission by the Minister and for the supplying of any document or other material, the carrying out of any examination and the doing of any other thing by him); and

(h) providing for such other matters as in his opinion may be necessary or desirable in order to give proper effect to this Act.

(2) Regulations made under subsection (1)(e)(viii) of this section shall apply only where petroleum or petroleum products are being transported—
   (a) on the waters mentioned in item 36(a) and (b) of Part I of the Second Schedule to the Constitution of the Federal Republic of Nigeria 1999; or
   (b) by railway or transport ancillary thereto; or
   (c) on trunk roads within the meaning of item 62 of that Part of that Schedule.

[Second Schedule, Cap. C23]

10. Discharge of obligation to make payments
An obligation to pay any fee, rent, royalty, premium or other sum imposed by or under this Act shall be discharged if, and only if, the payment is made within the time provided by or under this Act (or, where no time is so provided, within a reasonable time) to the Minister or his duly authorised representative.

11. Settlement of disputes by arbitration
(1) Where by any provision of this Act or any regulations made thereunder a question or dispute is to be settled by arbitration, the question or dispute shall be settled in accordance with the law relating to arbitration in the appropriate State and that provision shall be treated as a submission to arbitration for the purposes of that law.

(2) In this section “the appropriate State” means the State agreed by all parties to a question or dispute to be appropriate in the circumstances or, if there is no such agreement, the Federal Capital Territory, Abuja.

12. Delegation of powers
(1) The Minister may by writing under his hand delegate to another person any power conferred on him by or under this Act except the power to make orders and regulations.

(2) The Minister or the Director of Geological Survey may by writing under his hand delegate any power conferred on him by or under this Act to another public officer.

13. Offences
(1) Any person who interferes with or obstructs the holder of a licence or lease granted under section 2 of this Act (or his servants or agents) in the exercise of any rights, power or liberty conferred by the licence or lease shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N200 or to imprisonment for a period not exceeding six months, or to both.

(2) Any person who—
   (a) constructs or operates a refinery in Nigeria without a licence granted under section 3 of this Act, or
   (b) in any land to which section 1 of this Act applies—
      (i) explores for petroleum without an oil exploration licence, or
      (ii) prospects for petroleum without an oil prospecting licence, or
(iii) wins or works petroleum otherwise than in pursuance of a licence or lease granted under this Act,
(iv) does, without the appropriate licence, any act for which a licence is required under any
regulations made under this Act, shall be guilty of an offence and shall be liable on conviction
to a fine not exceeding ₦2000.

(3) Any person who contravenes any provision of an order made under section 6 of this Act shall be
guilty of an offence and on conviction shall be liable to a fine not exceeding ₦2000.

(4) Where a person is convicted of an offence under subsection (2) or (3) of this section in respect of any
petroleum or petroleum product, then, in addition to any penalty imposed under the subsection in
question, the convicting court may—
(a) order the petroleum or petroleum products to be forfeited; or
(b) order that person to pay to the Minister the value of the petroleum or petroleum products.

14. Repeals, amendment, transitional and savings provisions
(1) The enactments specified in the Third Schedule to this Act are hereby repealed to the extent therein
specified.

(2) The reference to the Mineral Oils Act in section 112 (1) and (2) of the Minerals Act and the reference
to the Petroleum Act in section 8(3) of the Petroleum Control Act shall be construed as including
a reference to this Act.

[Cap. M12.]

(3) The transitional and savings provisions in the Fourth Schedule to this Act shall have effect
notwithstanding any other provision of this Act.

15. Interpretation
(1) In this Act, unless the context otherwise requires—
“barrel” means a barrel of 42 United States gallons;
“continental shelf” means the seabed and subsoil of those submarine areas adjacent to the coast of
Nigeria the surface of which lies at a depth no greater than 200 metres (or, where its natural resources
are capable of exploitation, at any depth) below the surface of the sea, excluding so much of those
areas as lies below the territorial waters of Nigeria;
“crude oil” means mineral oil in its natural state before it has been refined or treated (excluding water
and other foreign substances);
“explore”, in relation to petroleum, means to make a preliminary search by surface geological and
geophysical methods, including aerial surveys but excluding drilling below 91.44 metres;
“Minister” means the Minister of Petroleum Resources;
“natural gas” means gas obtained from boreholes and wells and consisting primarily of
hydrocarbons;
“petroleum” means mineral oil (or any related hydrocarbon) or natural gas as it exists in its natural
state in strata, and does not include coal or bituminous shales or other stratified deposits from
which oil can be extracted by destructive distillation;
“petroleum products” includes motor spirit, gas oil, diesel oil, automotive gas oil, fuel oil, aviation fuel,
kerosene, liquefied petroleum gases and any lubrication oil or grease or other lubricant;
“prospect”, in relation to petroleum, means search for by all geological and geophysical methods,
including drilling and seismic operations;
“refinery” means petroleum refinery;
“rent” includes any annual or other periodic charge made in respect of a licence granted under section
2 of this Act;
“State” except in section 1 of this Act, means a State of the Federation.

(2) References in this Act to the Director of Geological Survey are reference to the persons for the
time being holding, acting in or performing the functions of the offices so designated in the
public service of the Federation as defined in the Constitution of the Federal Republic of Nigeria
1999.

[Cap. C23.]

Section 16. Short title and commencement
(1) This Act may be cited as the Petroleum Act.

(2) This Act, except section 6 and the Second Schedule thereof, shall come into force on 27th November, 1969.
FIRST SCHEDULE
[Section 2 (3)]

OIL EXPLORATION LICENCES, OIL PROSPECTING LICENCES AND OIL MINING LEASES

Oil Exploration Licences

1. An oil exploration licence shall apply to the area specified therein which may be any area on which a premium has not been placed by the Minister, and shall authorise the licence to undertake exploration for petroleum in the area of the licence, excluding land in respect of which the grant of an oil prospecting licence or oil mining lease has been approved by the Minister and land in respect of which an oil prospecting licence or oil mining lease is in force.

2. An oil exploration licence shall not confer any exclusive rights over the area of the licence, and the grant of an oil exploration licence in respect of any area shall not preclude the grant of another oil exploration licence or of an oil prospecting licence or oil mining lease over the same area or any part thereof.

3. An oil exploration licence shall terminate on the 31st December next following the date on which it was granted, but the licensee shall have an option to renew the licence for one further year if—
   (a) he has fulfilled in respect of the licence, all obligation imposed upon him by this Act or otherwise;
   (b) the Minister is satisfied with the work done and the reports submitted by the licensee in pursuance of the licence, and
   (c) an application for renew has been made at least three months before the date of expiry of the licence.

4. An oil exploration licence shall not confer any right to the grant of an oil prospecting licence or an oil mining lease.

Oil Prospecting Licences

5. The holder of an oil prospecting licence shall have the exclusive right to explore and prospect for petroleum within the area of his licence.

6. The duration of an oil prospecting licence shall be determined by the Minister, but shall not exceed five years (including any periods of renewal).

7. The holder of an oil prospecting licence may carry away and dispose of petroleum won during prospecting operations, subject to the fulfilment of obligations imposed upon him by or under this Act (including any special terms or conditions imposed under paragraph 34 of this Schedule) or by the Petroleum Profits Tax Act or any other law imposing taxation in respect of petroleum.

Oil Mining Leases

8. An oil mining lease may be granted only to the holder of an oil prospecting licence who has—
   (a) satisfied all the conditions imposed on the licence or otherwise imposed on him by this Act, and
   (b) discovered oil in commercial quantities.

9. For the purposes of paragraph 8 of this Schedule, oil shall be deemed to have been discovered in commercial quantities by the holder of an oil prospecting licence if the Minister, upon evidence adduced by the licence, is satisfied that the licensee is capable of producing at least 10,000 barrels per day of crude oil from the licensed area.

10. The term of an oil mining lease shall not exceed twenty years, but may be renewed in accordance with this Act.

11. Subject to this Act and any special terms or conditions imposed under paragraph 34 of this Schedule, the lessee of an oil mining lease shall have the exclusive right within the leased area to conduct exploration and prospecting operations and to win, get, work, store, carry away, transport, export or otherwise treat petroleum discovered in or under the leased area.

12. (1) Ten years after the grant of oil mining lease one-half of the area of the lease shall be relinquished.
    (2) Paragraph 18 of this Schedule shall apply to the relinquished area.

13. (1) The lessee of an oil mining lease shall be entitled to apply in writing to the Minister, not less than twelve months before the expiration of the lease, for a renewal of the lease either in respect of the whole of the leased area or any particular part thereof; and the renewal shall be granted if the lessee has paid all rent and royalties due and has otherwise performed all obligations under the lease.
    (2) Paragraph 12 of this Schedule shall not apply in relation to a lease which has been renewed under this paragraph.
Assignments

14. Without the prior consent of the Minister, the holder of an oil prospecting licence or an oil mining lease shall not assign his licence or lease, or any right, power or interest therein or thereunder.

15. The prescribed fee shall be paid on an application for an assignment under paragraph 14 of this Schedule and the Minister's consent for the assignment may be given on payment of such other fee or such premium, or both, and upon such terms, as he may decide:

Provided that the Minister may waive payment of that other fee or that premium, or both, if he is satisfied that the assignment is to be made to a company in a group of which the assignor is a member, and is to be made for the purpose of re-organisation in order to achieve greater efficiency and to acquire resources for more effective petroleum operations.

16. The Minister shall not give his consent to an assignment unless he is satisfied that
   (a) the proposed assignee is of good reputation, or is a member of a group of companies of good reputation, or is owned by a company or companies of good reputation;
   (b) there is likely to be available to the proposed assignee (from his own resources or through other companies in the group of which he is a member, or otherwise) sufficient technical knowledge and experience and sufficient financial resources to enable him effectually carry out a programme satisfactory to the Minister in respect of operations under the licence or lease which is to be assigned; and
   (c) the proposed assignee is in all other respects acceptable to the Federal Government.

17. Farm-Out
   (1) The holder of an oil mining lease may, with the consent of land on such terms and conditions as may be approved by the President, farm out any marginal field which lies within the leased area. [1996 No. 23]

   (2) The President may cause the farm-out of a marginal field if the marginal field has been left unattended for a period of not less than 10 years, from the date first discovery of the marginal field.

   (3) The President shall not give his consent to a farm-out or cause the farm-out of a marginal field unless he is satisfied-
       (a) that it is in the public interest so to do, and, in addition, in the case of a non-producing marginal field, that the marginal field has been left unattended for an unreasonable time, not being less than 10 years; and
       (b) that the parties to the farm-out are in all respects acceptable to the Federal Government.

   (4) For the purposes of this paragraph-
       “farm-out” means an agreement between the holder of an oil mining lease and a third party which permits the third party to explore, prospect, win work and carry away petroleum encountered in a specified area during the validity of the lease;
       “marginal field” means such field as the President may, from time to time, identify as a marginal field.

Terminations

18. (1) The holder of an oil prospecting licence or oil mining lease may, at any time, terminate his licence or lease by giving to the Minister not less than three months notice in writing to that effect.

   (2) Where notice is given under this paragraph, no rent paid shall be refundable, and the termination shall otherwise be without prejudice to any obligation or liability imposed by or incurred under the licence or lease before the effective date of termination.

19. (1) Without prejudice to paragraph 12 of this Schedule, the holder of an oil prospecting licence or oil mining lease shall be entitled at any time on giving three months notice in writing to the Minister to surrender the licence or lease in respect of any particular part of the licensed or leased area.

   (2) Paragraphs 19 to 22 of this Schedule shall apply where a surrender is made under this paragraph.

20. The shape and size of the area to be retained and of the area to be relinquished shall be approved by the Minister.

21. Subject to the provisions of all the relevant laws and on such terms and conditions as may be approved by the Minister, the licensee or lessee shall be entitled to such way-leaves for the laying, operation and maintenance of pipelines, telephones and the like through or across the surrendered area or areas as he may reasonably require—
   (a) for the carrying on of operations under the licence or lease; or
(b) for inter-communication and passage between retained areas (and, in the case of licences or leases in the continental shelf, between retained areas and onshore lands), and any such way-leaves form part or be included in the calculation of the amount of the retained areas.

22. There shall be reserved to the Minister over the retained part such way-leaves, easements or other rights as in his opinion are necessary or desirable for the laying, operation and maintenance of pipelines, telephone lines and ensure for the benefit of any person or body to whom the Minister may subsequently grant the same to the extent that he may so grant them.

23. No rent paid shall be refundable, but the surrender shall otherwise be without prejudice to any obligation or liability imposed by or incurred under the licence or lease before the effective date of surrender.

Revocations

24. (1) The Minister may revoke any oil prospecting licence or oil mining lease if the licensee or lessee becomes controlled directly or indirectly by a citizen of, or subject of, or a company incorporated in, any country which is—
   (a) a country other than the licensee's or lessee's country of origin; and
   (b) a country the laws of which do not permit citizens of Nigeria or Nigerian companies to acquire, hold and operate petroleum concessions on conditions which in the opinion of the Minister are reasonably comparable with the conditions upon which such concessions are granted to subjects of that country.

(2) In this paragraph “Nigerian company” means a company incorporated in Nigeria or a company controlled directly or indirectly or by citizens of Nigeria.

25. (1) The Minister may revoke any oil prospecting licence or oil mining lease if in his opinion the licensee or lessee—
   (a) is not conducting operations:—
      (i) continuously,
      (ii) in a vigorous and businesslike manner in accordance with the basic work programme approved for the licensee or lessee and
      (iii) in accordance with good oil field practice; or
   (b) has failed to comply with any provision of this Act or any regulation or direction given thereunder or is not fulfilling his obligations under the special conditions of his licence or lease; or
   (c) fails to pay his due rent or royalties, whether or not they have been demanded by the Minister, within the period specified by or in pursuance of this Act; or
   (d) has failed to furnish such reports on his operations as the Minister may lawfully require.

(2) Paragraphs 26 to 30 of this Schedule shall apply where there is revocation under this paragraph.

26. The Minister shall inform the licensee or lessee of the grounds on which the revocation is contemplated and shall invite the licensee or lessee to make any explanation if he so desires.

27. If the Minister is satisfied with the explanation, he may invite the licensee or lessee to rectify the matter complained of within a specified period.

28. If—
   (a) the licensee or lessee makes no or no sufficient explanation; or
   (b) does not rectify the matter complained of within the specified period,
   the Minister may revoke the licence or lease.

29. A notice sent to the last known address of the licensee or lessee or his legal representative in Nigeria and published in the Federal Gazette shall, for all purposes, be sufficient notice to him of the revocation of the licence or lease.

30. The revocation shall be without prejudice to any liabilities which the licensee or lessee may have incurred, or to any claim against him which may have accrued to the Federal Government.

Fees, rents and royalties

31. There shall be paid in respect of licences and leases to which this Schedule applies such application fees as may be prescribed.

32. There shall be paid in respect of licences and leases to which this Schedule applies such rents as may be prescribed.

33. Royalties shall be paid at the prescribed rates or, where rates are specified in special terms and conditions attached to the relevant licence or lease, at the rates so specified.
34. Licences and leases to which this Schedule applies shall be in the prescribed form or, where no form is prescribed, in such form as the Minister considers suitable.

35. If he considers it to be in the public interest, the Minister may impose on a licence or lease to which this Schedule applies special terms and conditions not inconsistent with this Act including (without prejudice to the generality of the foregoing) terms and conditions as to—
   
   (a) participation by the Federal Government in the venture to which the licence or lease relates, on terms to be negotiated between the Minister and the applicant for the licence or lease, and

   (b) special provisions applying to any natural gas discovered; which provisions shall include—
      
      (i) the right of the Federal Government to take natural gas produced with the crude oil by the licensee or lessee free of cost at the flare or at an agreed cost and without payment of royalty;
      
      (ii) the obligation of the licensee or lessee to obtain the approval of the Federal Government as to the price at which natural gas produced by the licensee or lessee (and not taken by the Federal Government) is sold; and
      
      (iii) a requirement for the payment by the licensee or lessee of royalty on natural gas produced and sold.

36. The holder of an oil prospecting licence or oil mining lease shall—
   
   (a) have a general right to enter and remain on the licensed or leased lands and do such things as are authorised by the licence or lease, and
   
   (b) shall comply with any enactment relating to town or country planning or regulating the construction, alteration, repair or demolition of buildings, or providing for similar matters, which affects him in carrying out the operations authorised by the licence or lease.

37. The holder of an oil exploration licence, oil prospecting licence or oil mining lease shall, in addition to any liability for compensation to which he may be subject under any other provision of this Act, be liable to pay fair and adequate compensation for the disturbance of surface or other rights to any person who owns or is in lawful occupation of the licensed or leased lands.

38. The holder of an oil mining lease shall ensure that—
   
   (a) within ten years from the grant of his lease—
      
      (i) the number of citizens of Nigeria employed by him in connection with the lease in managerial, professional and supervisory grades (or any corresponding grades designed by him in a manner approved by the Minister) shall reach at least 75 per cent of the total number of persons employed by him in those grades, and
      
      (ii) the number of citizens of Nigeria in any one such grade shall be not less than 60 per cent of the total, and
   
   (b) all skilled, semi-skilled and unskilled workers are citizens of Nigeria.

39. The holder of any licence or lease to which this Schedule applies shall at all times indemnify and keep harmless the Federal Government, the Minister and every officer in the service of the Federation or the States (and their agents) against all actions, costs, charges, claims and demands whosoever which may be made or bought by any third party in relation to any matter or thing done or purported to be done in pursuance of this Act.

40. If any fee, rent or royalty due under this Act is unpaid for a period of one month after the date when it becomes due (whether legally demanded or not), the Minister may, in addition to any other remedies which may be available—
   
   (a) enter into and upon any land, property or premises possessed or occupied by the licensee or lessee in connection with the licence or lease; and
   
   (b) seize and distrain and sell as landlords may do for rents in arrear any petroleum, petroleum products, engines, machinery, tools, implements or other effects belonging to the licensee or lessee which may be found in or upon the land, property or premises; and
   
   (c) out of monies arising from the sale of the distress, retain and pay off the arrears of the said fee, rent or royalty and also the costs and expenses incident to the distress and sale, rendering the surplus (if any) to the licensee or lessee.

41. (1) Failure on the part of the holder of a licence or lease to which this Schedule applies to fulfil any of terms or conditions of the licence or lease shall not (except as may be otherwise provided for in or in relation to the licence or lease) give the Minister any claim against the licensee or lessee, or be deemed a breach of the licence or lease, if the failure arises from causes beyond the control of the licensee or lessee.
(2) If from any such cause the fulfilment by any such licensee or lessee of any term or condition of his licence or lease or of any provision of this Act is delayed, the period of delay shall be added to the period fixed for the fulfilment of the term or condition.

42. If any question or dispute arises in connection with any licence or lease to which this Schedule applies between the Minister and the licensee or lessee (including a question or dispute as to the payment of any fee, rent or royalty), the question or dispute shall be settled by arbitration unless it relates to a matter expressly excluded from arbitration or expressed to be at the discretion of the Minister.

SECOND SCHEDULE
[Section 7(2)]

Rights of Pre-emption

1. The Minister shall have the right to require the holder of any licence or lease granted under this Act (the holder in question being referred to in this Schedule as “the licensee or lessee”)—
   (a) to produce for the Federal Government, to the extent of any refinery capacity he may have in Nigeria, petroleum products complying with specifications given by the Minister;
   (b) to delivery to any person holding a licence to operate a refinery, such quantity and quality of crude oil as may be specified by the Minister to the extent that the licensee or lessee has crude oil of that quantity and quality.
2. The licensee or lessee shall use his best endeavours to increase so far as possible with his existing facilities the supply of petroleum or petroleum products, or both, for the Federal Government to the extent required by Minister.
3. The licensee or lessee shall, with all reasonable expedition and so as to avoid demurrage on the vessels conveying the same, use his best endeavours to deliver all petroleum or petroleum products purchased by the Minister under his said right of pre-emption in such quantities, and at such places of shipment or storage in Nigeria, as may be determined by the Minister.
4. If a vessel employed to carry petroleum or petroleum products pursuant to paragraph 3 of this Schedule is detained on demurrage at the port of loading, the licensee or lessee shall pay the amount due for demurrage according to the terms of the charter-party or the rates of loading previously agreed by the licensee or lessee, unless the delay is due to causes beyond the control of the licensee or lessee.
5. Any dispute which may arise as to whether a delay is due to causes beyond the control of the licensee or lessee shall be settled by agreement between the Minister and the licensee or lessee or, in default of agreement, by arbitration.
6. The price to be paid for petroleum or petroleum products taken by the Minister in exercise of his said right of pre-emption shall be—
   (a) the reasonable value at the port of delivery, less discounts to be agreed by both parties; or
   (b) if no such agreement has been entered into prior to the exercise of the right of pre-emption, a fair price at the port of delivery to be settled by agreement between the Minister and the licensee or lessee or, in default of agreement, by arbitration.
7. To assist in arriving at a fair price for the purposes of paragraph 6(b) of this Schedule, the licensee or lessee shall, if the Minister so requires—
   (a) furnish for his confidential information particulars of the quantities, descriptions and prices of petroleum or petroleum products sold to other customers and of charters or contacts entered into for their carriage; and
   (b) exhibits original or authenticated copies of the relevant contracts or charter-parties.
8. The Minister may take control of any works, plants or premises of the licensee or lessee; and if he does so, the licensee or lessee and his servants or agents shall conform to and obey all directions issued by the Minister or on his behalf.
9. Reasonable compensation shall be paid to the licensee or lessee for any loss or damage caused to him by reason of the exercise by the Minister of the powers conferred by paragraph 8 of this Schedule.
10. Any compensation payable under paragraph 9 of this Schedule shall be settled by agreement between the Minister and the licensee or lessee or, in default of agreement, by arbitration.
THIRD SCHEDULE
[Section 14 (1)]

REPEALS

<table>
<thead>
<tr>
<th>Chapter or number</th>
<th>Short title or citation</th>
<th>Extent of repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cap. 120 of 1958  Laws of Nigeria</td>
<td>Minerals Oils Act</td>
<td>The whole Act.</td>
</tr>
<tr>
<td>Cap. 121 of 1958  Laws of Nigeria</td>
<td>Minerals Act</td>
<td>The words “and mineral oils”, in section 3, together with the words “mineral oil” in the marginal note.</td>
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FOURTH SCHEDULE
[Section 14 (3)]

Transitional and Savings Provisions

1. Any licence or lease granted under an enactment repealed by this Act shall continue in force notwithstanding the repeal, but shall be subject to this Act and to any regulations made thereunder except as regards the duration of the licence or lease, the rent and royalties payable in respect thereof and any term or condition as to which the Minister certifies that the justice of the case requires that the term or condition in question shall continue to be effective notwithstanding this Act.

2. Where a refinery constructed with the approval of the Federal Government, or of any of its predecessors, was in operation immediately before the commencement of this Act—
   (a) it shall be the duty of the persons in control of the refinery to apply in writing within sixty days of the commencement of this Act (or within such further period as the Minister may allow) to the Minister for a licence under section 3 of this Act;
   (b) on receipt of the application the Minister shall grant the licence subject to the payment of such fees (including application fees), such rent and such conditions as he thinks fit, if any; and
   (c) section 12(2) of this Act shall not have effect in relation to the refinery during the said sixty days or any such further period or, if the application is duly made, until the application is finally disposed of.

3. (1) Any existing operator may, within sixty days of the commencement of this Act or within such further period as the Minister may allow, apply in writing to the Minister for a licence under section 4(1) of this Act or under any regulations coming into force simultaneously with this Act, and section 16(2) of this Act, in so far as it relates to the existing operator and to the licence—
   (a) shall not have effect during the said sixty days or any such further period; or
   (b) if such a licence is applied for under this paragraph, have effect in relation to the applicant until his application has been finally disposed of.

   (2) In this paragraph “existing operator”, in relation to a licence, means any person who immediately before the commencement of this Act was carrying on with the knowledge and approval of the Federal Government the activity regulated by the licence.

4. The Mineral Oils (Safety) Regulations 1963 and, to the extent that they were under section 3(1) of the Petroleum Act, the Petroleum Regulations 1967 shall be deemed to have been made under section 9 of this Act and may be added to, amended, varied or revoked accordingly. L.N. 45 of 1963. Cap 150 of 1958 Laws of Nigeria. L.N. 71 of 1967

   (2) The power conferred by sub-paragraph (1) of this paragraph shall be deemed to include power to make any modifications necessary to bring the said regulations into conformity with the powers conferred by the said section 9.

5. A person shall not be convicted of an offence for doing any act authorised by a licence or lease as saved by paragraph 1 of this Schedule.

6. Within the twelve months immediately following the commencement of this Act, the Minister may by order in the Federal Gazette make such further transitional or saving provisions (not inconsistent with this Schedule) as he may think necessary or desirable.
An Act to compel every company producing oil and gas in Nigeria to submit preliminary programmes for gas re-injection and detailed plans for implementation of gas re-injection.

1. **Duty to submit preliminary programme for gas re-injection**
   Notwithstanding the provision of regulation 42 of the Petroleum (Drilling and Production) Regulations made under the Petroleum Act, every company producing oil and gas in Nigeria shall not later than 1st April, 1980 submit to the Minister a preliminary programme for—
   (a) schemes for the viable utilisation of all associated gas produced from a field or groups of fields;
   (b) project or projects to re-inject all gas produced in association with oil but not utilised in an industrial project.

2. **Duty to submit detailed plans for implementation of gas re-injection**
   1) Not later than 1st October, 1980, every company producing oil and gas in Nigeria shall submit to the Minister, detailed programmes and plans for either—
      (a) the implementation of programmes relating to the re-injection of all produced associated gas; or
      (b) schemes for the viable utilisation of all produced associated gas.
   2) The fact that some of the gas produced in association with oil has been earmarked for some alternative utilisation shall not exempt compliance with section 1 of this Act and subsection (1) of this section.

3. **Flaring of gas to cease**
   (1) Subject of subsection (2) of this section no company engaged in the production of oil or gas shall after 1st January, 1984 flare gas produced in association with oil without the permission in writing of the Minister.
   (2) Where the Minister is satisfied after 1st January, 1984 that utilisation or re-injection of the produced gas is not appropriate or feasible in a particular field or fields, he may issue a certificate in that respect to a company engaged in the production of oil or gas—
      (a) specifying such terms and conditions, as he may at his discretion choose to impose, for the continued flaring of gas in the particular field or fields; or
      (b) permitting the company to continue to flare gas in the particular field or fields if the company pays such sum as the Minister may from time to time prescribe for every 28.317 Standard cubic metre (SCM) of gas flared:

Provided that any payment due under this paragraph shall be made in the same manner and be subject to the same procedure as for the payment of royalties to the Federal Government by companies engaged in the production of oil.

4. **Penalty**
   (1) Where any person commits an offence under section 3 of this Act, the person concerned shall forfeit the concessions granted to him in the particular field or fields in relation to which the offence was committed.
   (2) In addition to the penalty specified in subsection (1) of this section, the Minister may order the withholding of all or part of any entitlements of any offending person towards the cost of completion or implementation of a desirable re-injection scheme, or the repair or restoration of any reservoir in the field in accordance with good oilfield practice.

5. **Power to make regulations**
   The Minister may make regulations prescribing anything requiring to be prescribed for the purposes of this Act.

6. **Act to apply in Exclusive Zone.**
   The provisions of this Act shall apply to the Exclusive Zone as they apply to land as defined in section 1 of the Petroleum Act. [Cap P10]

7. **Interpretation**
   “Minister” means the Minister charged with responsibilities for matters relating to petroleum. [Cap E17]

8. **Short title**
   This Act may be cited as the Associated Gas Re-injection Act.
An Act to make provisions for the transfer of all shares held by the British Petroleum Company Limited in BP Nigeria Ltd and all interests appertaining thereto in the Shell BP Petroleum Development Company of Nigeria Limited to the Nigerian National Petroleum Corporation; and the payment of compensation for such shares in accordance with laid down formulae.

1. Transfer of shares of British Petroleum Company Limited to the Corporation
   Notwithstanding the provisions of any other enactment, all shares of whatever description and however held by the British Petroleum Company Limited in BP Nigeria Limited and all rights, privileges, equities, entitlements and interests of whatever description held by or due to the British Petroleum Company Limited in all oil concessions in Nigeria (including licences and oil mining leases) granted to the Shell-BP Petroleum Development Company of Nigeria Limited are hereby transferred to and shall hereafter vest in the Nigerian National Petroleum Corporation in accordance with the following provisions of this Act and without further assurance than this Act.

2. Computation of compensation payable
   Compensation for anything acquired pursuant to section 1 of this Act shall be paid by the Corporation to the British Petroleum Company Limited and such compensation shall be computed respectively as follows, that is to say-
   a) in respect of shares in BP Nigeria Limited, on the basis of the share valuation to be undertaken by the Capital Issues Commission; and
   b) in respect of rights, privileges, equities, entitlements and interests (including licences and oil mining leases) appertaining to the British Petroleum Company Limited in the Shell-BP Petroleum Development Company of Nigeria Limited, on the basis of the Corporation's participation in the joint venture operations of oil-producing companies in Nigeria.

3. Rectification of certain registers.
   (1) The Managing Director of the Corporation shall cause a copy of this Act to be served upon the secretary or other officer or agent of any company having charge of, or control over, the register of members of the BP Nigeria Limited and the secretary or other officer or agent aforesaid shall strike out the name of the British Petroleum Company Limited as holder of any share transferred pursuant to section 1 of this Act and substitute therefor the name of the Corporation in the aforesaid register.
   (2) The Managing Director aforesaid shall likewise cause a copy of this Act to be served upon the Registrar of Companies who shall similarly rectify his records relating to the names of the members of that company accordingly.

4. Shell-BP to be reconstituted Cap. 59.[Cap C20]
   (1) Notwithstanding any provision of the Companies and Allied Matters Act or any other enactment to the contrary, the Shell-BP Petroleum Development Company of Nigeria Limited shall be deemed to have been re-constituted by the shareholders or other beneficial owners thereof (other than the British Petroleum Company Limited) to the extent necessary to extinguish any share-holding or beneficial ownership therein by the said British Petroleum Company Limited and otherwise as may be necessary to ensure compliance with the objective and intendment of this Act.
   (2) The company reconstituted as above specified shall, as from the date of coming into force of this Act, be subject to all the obligations and liabilities to which the Shell-BP Petroleum Development Company of Nigeria Limited was subject immediately before the aforesaid day and all other persons shall, as from that day, have the same rights, powers and remedies against the reconstituted company as they had against the Shell-BP Petroleum Development Company of Nigeria Limited immediately before the aforesaid day.
(3) The chief executive officer (howsoever designated) of the reconstituted company shall, not later than 30th September 1979, notify in writing the secretary or other officer or agent of any company having charge of, or control over, the register of members of the Shell-BP Petroleum Development Company of Nigeria Limited and the secretary or other officer or agent aforesaid shall strike out the name of the British Petroleum Company Limited as the holder of any share extinguished pursuant to subsection (1) of this section.

(4) The chief executive officer aforesaid shall likewise cause a copy of the notification to be served upon the Registrar of Companies who shall rectify his records accordingly.

5. **Penalty.**
   Any person who contravenes or fails to comply with any of the provisions of section 3 or 4 of this Act shall be guilty of an offence and shall be liable upon conviction to imprisonment for one year without the option of a fine.

6. **Indemnity and exclusion**
   (1) All persons rectifying any register or other records of, or relating to the companies in pursuance of sections 3 and 4 of this Act shall stand indemnified in respect thereof and no suit or other legal proceeding shall lie at the instance of any person aggrieved for anything done in intended pursuance of this Act.

   (2) The question whether any provision of Chapter IV of the Constitution of the Federal Republic of Nigeria has been, is being or would be contravened by anything done or proposed to be done in pursuance of this Act shall not be inquired into in any court of law, accordingly, Chapter IV of the Constitution of the Federal shall not apply in relation to any such question.

7. **Interpretation**
   In this Act unless the context otherwise requires-

   “**British Petroleum Company Limited**” means a company of that designation or description registered in the United Kingdom of Great Britain and Northern Ireland and includes any of its nominees or affiliates whatsoever.

   “**Capital Issues Commission**” means the Commission of that name established by the Capital by the Capital Issues Act 1973.

   “**Corporation**” means Nigerian National Petroleum Corporation established by the Nigerian National Petroleum Corporation Act.

   “**enactment**” includes any agreement or any other instrument whatsoever.

8. **Short title**
   This Act may be cited as the Acquisition of Assets (British Petroleum Company Limited) Act.
SECTION
1. Production sharing contracts.
2. Duration of oil prospecting licence.
3. Determination of petroleum profits tax.
4. Determination of investment tax credit and investment tax allowance.
5. Royalty payable in respect of deep offshore production sharing contracts.
7. Allocation of royalty oil.
8. Allocation of cost oil.
10. Allocation of profit tax.
11. Payment of royalty.
12. Chargeable tax on petroleum operations.
13. Use of realisable price in determining royalty and petroleum profit tax in respect of crude oil, etc.
15. Adaptation of laws.
16. Periodic review.
17. Interpretation.

DEEP OFFSHORE AND INLAND BASIN PRODUCTION SHARING CONTRACT ACT 1999

An Act to, among other things, give effect to certain fiscal incentives given to the oil and gas companies operating in the Deep Offshore and Inland Basin areas under production sharing contracts between the Nigerian National Petroleum Corporation or other companies holding oil prospecting licenses or oil mining leases and various petroleum exploration and production companies. [1999 No. 9]

Commencement (1st January 1993)

1. Production Sharing Contracts
   Notwithstanding anything to the contrary contained in any other enactment or law, the provisions of this Act shall apply to all Production Sharing Contracts as defined in section 17 of this Act.

2. Duration of Oil Prospecting Licence
   The duration of an oil prospecting license relating to Production Sharing Contracts in the Deep Offshore and Inland Basin shall be determined by the Minister and shall be for a minimum period of 5 years and an aggregate period of 10 years.

3. Determination of Petroleum Profit Tax. Cap P13 LFN
   (1) The Petroleum Profits Tax payable under a Production Sharing Contract shall be determined in accordance with the Petroleum Profit Tax Act as amended:

   Provided that the Petroleum Profits Tax applicable to the contract area as defined in the Production Sharing Contracts shall be 50 percent flat rate of chargeable profits for the duration of the Production Sharing Contracts.

   (2) Nothing contained in this Act shall be construed as having exempted the Contractors from the payment of any other taxes, duties or levies imposed by any Federal, State of Local Government, or Area Council Authority.

4. Determination Of Investment Tax Credit And Investment Tax Allowance
   Where the Nigerian National Petroleum Corporation (in this Act referred to as “the Corporation”) or the Holder and the Contractor have incurred any qualifying capital expenditure wholly, exclusively and necessarily for the purposes of petroleum operations carried out under the terms of a Production Sharing Contract in the
Deep Offshore Inland Basin, there shall be due to the Parties in respect of the Production Sharing Contracts executed prior to 1st July, 1998, a credit (in this Act referred to as “Investment Tax Credit”) at a flat rate of 50 per cent of the qualifying expenditure in accordance with the Production Sharing Contract terms for the accounting period in which that asset was first used for the purposes of such operations.

In respect of Parties who executed Production Sharing Contracts after 1st July 1998, there shall be due to such Parties an allowance (“in this Act referred to as an “Investment Tax Allowance”) at a flat rate of 50 per cent of the qualifying expenditure in accordance with the provisions of existing applicable legislation for the accounting period in which that asset was first used for the purposes of such operations.

5. **Royalty Payable In Respect Of Deep Offshore Production Sharing Contracts**

The payment of royalty in respect of the Deep Offshore Production Sharing Contracts shall be graduated as follows, that is—

<table>
<thead>
<tr>
<th>Area</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>In area from 201 to 500 metres water depth</td>
<td>12 per cent</td>
</tr>
<tr>
<td>From 501 to 800 metres water Depth</td>
<td>8 per cent</td>
</tr>
<tr>
<td>From 801 to 1000 metres water Depth</td>
<td>4 per cent</td>
</tr>
<tr>
<td>In areas in excess of 1000 metres depth</td>
<td>0 per cent</td>
</tr>
</tbody>
</table>

(2) The royalty rate payable under the Production Sharing Contracts in the Inland Basin shall be 10 per cent.

6. **Computation of Petroleum Profit Tax**

Computation and payment of estimated and final petroleum profit tax shall be made in US dollars on the basis of the US dollar returns filed.

7. **Allocation of Royalty Oil**

Royalty oil shall be allocated to the Corporation or the Holder, as the case may be, in such quantum as shall generate an amount of proceeds equal to actual royalty payable during each month and the concession rental payable annually in accordance with the Production Sharing Contracts terms.

8. **Allocation of Cost Oil**

(1) Cost oil shall be allocated to the contractor in such quantum as shall generate an amount of proceeds sufficient for the recovery of operating costs in oil prospecting licences as defined in the Production Sharing Contracts and any mining leases derived therefrom.

(2) All operating costs shall be recovered in U.S. Dollars through cost oil allocations in accordance with the terms of the Production Sharing Contract.

9. **Allocation of Tax Oil**

Tax oil shall be allocated to the Corporation or the Holder, as the case may be, in such quantum as shall generate an amount of proceeds equal to the actual petroleum profit tax liability payable during each Month.

10. **Allocation of Profit Oil**

Profit oil, being the balance of available crude oil after deducting royalty oil, tax oil and cost oil, shall be allocated to each Party in accordance with the terms of the Production Sharing Contract.

11. **Payment of Royalty**

(1) The Corporation or the Holder, as the case may be, shall pay all royalty, concession rentals and Petroleum Profit Tax on behalf of itself and the Contractor out of the allocated royalty oil and tax oil.

(2) Separate tax receipts in the names of the Corporation or the Holder and the Contractor for the respective amounts of petroleum profit tax paid on behalf of the Corporation or the Holder and Contractor shall be issued by the Federal Inland Revenue Service (in this Act referred to as “the Service”) in accordance with the terms of the Production Sharing Contract.

12. **Chargeable Tax on Petroleum Operations**

The chargeable tax on petroleum operations in the contract area under the Production Sharing Contracts shall be split between the Corporation or the Holder and the Contractor in the same ratio as the split of profit oil as defined in the Production Sharing Contract between them.
13. **Use of Realisable Price in Determining Royalty and Petroleum Profit Tax in Respect of Crude Oil, Etc.**

(1) The realisable price as defined in the Production Sharing Contract established by the Corporation or The Holder in accordance with the provisions of the Production Sharing Contract, shall be used to determine the amount payable on royalty and petroleum profit tax in respect of crude oil produced and lifted pursuant to the Production Sharing Contract.

(2) The parameters for new crude oil streams produced from the contract area shall also be determined in accordance with the provisions of the Production Sharing Contract.

14. **Submission of Receipts**

The Corporation or the Holder, as the case may be, shall make available to the Contractor copies of the Receipts issued by the Service bearing the names of each Party as defined in the Production Sharing Contract in accordance with each Party's tax oil allocation for the payment of petroleum Profit tax under the provisions of the Production Sharing Contract.

15. **Adaptation of Laws**

(1) The relevant provision of all existing enactments or law, including but not limited to the Petroleum Act, as amended, and the Petroleum Profit Tax Act, as amended, shall be read with such Modifications as to bring them into conformity with the provisions of this Act.

   [Cap P10, Cap P13]

(2) If the provisions of any other enactment or law, including but not limited to the enactments specified in subsection (1) of this section, are inconsistent with the provisions of this Act, the provisions of this Act shall prevail and the provisions of that other enactment or law shall, to the extent of that inconsistency, be void.

16. **Periodic Review**

(1) The provisions of this Act shall be subject to review to ensure that if the price of crude oil at any time exceeds $20 per barrel, real terms, the share of the Government of the Federation in the additional revenue shall be adjusted under the Production Sharing Contracts to such extent that the Production Sharing Contracts shall be economically beneficial to the Government of the Federation.

   [1999 No. 26]

(2) Notwithstanding the provisions of subsection (1) of this section, the provisions of this Act shall be liable to review after a period of 15 years from the date of commencement and every 5 years thereafter.

   [1999 No. 26]

17. **Interpretation**

In this Act, unless the context otherwise requires—

“**Corporation**” means the Nigerian National Petroleum Corporation;

“**Contractor**” means any petroleum exploration and production company who has entered into a Production Sharing Contract agreement with the Corporation or entered into an agreement or arrangement with any Nigerian Holder of an oil prospecting licence or an oil mining lease within the Deep Offshore and Inland Basin;

“**Deep offshore**” means any water depth beyond 200 metres;

“**Holder**” means any Nigerian company who holds an oil prospecting license or oil mining lease situated within the Deep Offshore and Inland Basin under the relevant provision of the Petroleum Act, as amended;

“**Inland Basin**” means any of the following Basins, namely, Anambra, Benin, Benue, Chad, Gongola Sokoto and such other basins as may be determined, form time to time, by the Minister;

“**Minister**” means the Minister charged with responsibility for matters relating to petroleum and “**Ministry**” shall be construed accordingly;

“**Parties**” includes the Corporation or any Nigerian company as the Holder and the Contractor;

“**Production Sharing Contracts**” means any agreement or arrangements made between the Corporation or the Holder and any other petroleum exploration and production company or companies for the purpose of exploration and production of oil in the Deep Offshore and Inland Basins;

“**Service**” means the Federal Inland Revenue Service.

18. **Short Title.**

The Act may be cited as the Deep Offshore and Inland Basin Production Sharing Contracts Act.
ENVIRONMENTAL IMPACT ASSESSMENT ACT
[1992 No. 86]

ARRANGEMENT OF SECTIONS

PART 1
General principles of environmental impact assessment

SECTION
2. Restriction on Public or Private Project without Prior Consideration of the Environmental Impact.
3. Identification, etc., of Significant Environmental Issue.
5. Detailed Degree of Environmental Significance.
6. Examination of Environmental Impact Assessment by the Agency.
8. Decision not to be given until the appropriate period has elapsed.
9. Decision on the effect of an Environmental Impact Assessment to be in Writing.
10. Supervision of the activity.
11. Notification to potentially affected States or Local Government Areas, etc.
12. Mandatory Study List not be carried out without the Report of the Agency.

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Environmental Assessment of Projects

16. Factors for consideration of a review panel.
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18. Screening.
20. Use of Previously Conducted Screening.
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23. Use of Previously Conducted Mandatory Study.
27. Termination by Responsible Authority.
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31. Appointment of Mediator.
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33. Mediation.
34. Subsequent References to Review Panel.
35. Appointment of Review Panel.
37. Hearing of Witnesses.
38. Public Notice.
40. Design and Implementation.
41. Certificate.
42. Definition of Jurisdiction.
43. Joint Review Panel.
44. Substitute for Review Panel.
45. Conditions.
46. Substitution
ENVIRONMENTAL IMPACT ASSESSMENT ACT
[1992 No. 86]

An Act to set out the general principles, procedure and methods to enable the prior consideration of environmental impact assessment on certain public or private projects.

Commencement [10th December 1992]

PART 1
General Principles of Environmental Impact Assessment

1. Goals and Objectives of the Environmental Impact Assessment
The objectives of any environmental impact assessment (in the Act referred to “the Assessment”) shall be-
(a) to establish before a decision taken by any person, authority, corporate body or unincorporated body including the Government of the Federation, State or Local Government intending to undertake or authorise the undertaking of any activity that may likely or to a significant extent affect the environment or have environmental effects on those activities shall first be taken into account;
(b) to promote the implementation of appropriate policy in all Federal lands (however acquired) States and Local Government Areas, consistent with all laws and decision making processes through which the goal and objective in paragraph (a) of this section may be realised;
(c) to encourage the development of procedure for information exchange, notification and consultation between organs and persons when proposed activities are likely to have significant environmental effects on boundary or trans-state or on the environment of bordering towns and villages.

2. Restriction on Public or Private Project without Prior Consideration of the Environmental Impact
(1) The public or private sector of the economy shall not undertake or embark on or authorise projects or activities without prior consideration, at an early stage, of their environmental effects.
(2) Where the extent, nature or location of a proposed project or activities is such that is likely to significantly affect the environment, its environmental impact assessment shall be undertaken in accordance with the provisions of this Act.
(3) The criterion and procedure under this Act shall be used to determine whether an activity is likely to significantly affect the environment and is therefore subject to an environmental impact assessment.

(4) All agencies, institutions (whether public or private) except exempted pursuant to this Act, shall before embarking on the proposed project apply in writing to the Agency, so that subject activities can be quickly and surely identified and environmental assessment applied as the activities are being planned.

3. Identification, etc., of Significant Environmental Issue

(1) In identifying the environmental impact assessment process under this Act, the relevant significant environmental issues shall be identified and studied before commencing or embarking on any project or activity covered by the provisions of this Act or covered by the Agency or likely to have serious environmental impact on the Nigerian environment.

(2) Where appropriate, all efforts shall be made to identify all environmental issues at an early stage in the process.

4. Minimum Content of Environmental Impact Assessment

An environmental impact assessment shall include at least the following minimum matters, that is-

(a) a description of the proposed activities;
(b) a description of the potential affected environment including specific information necessary to identify and assess the environmental effect of the proposed activities;
(c) a description of the practical activities, as appropriate;
(d) an assessment of the likely or potential environmental impact of the proposed activity and the alternatives, including the direct or indirect cumulative, short-term and long-term effects;
(e) an identification and description of measures available to mitigate adverse environmental impacts of proposed activity and assessment of those measures;
(f) an indication of gaps in knowledge and uncertainty which may be encountered in computing the required information;
(g) an indication of whether the environment of any other State or Local Government Area or areas outside Nigeria is likely to be affected by the proposed activity or its alternatives;
(h) a brief and non-technical summary of the information provided under paragraphs (a) to (g) of this section.

5. Detailed Degree of Environmental Significance

The environmental effects in an environmental assessment shall be assessed with a degree of detail commensuration with their likely environmental significance.

6. Examination of Environmental Impact Assessment by the Agency

The information provided as of environmental impact assessment shall be examined impartially by the Agency prior to any decision to be made thereto (whether in favour or adverse thereto).

7. Opportunity for Comments by Certain Groups

Before the Agency gives a decision on an activity to which an environmental assessment has been produced, the Agency shall give opportunity to government agencies, members of the public, experts in any relevant discipline and interested groups to make comment on environmental impact assessment of the activity.

8. Decision not to be given until the appropriate period has elapsed

The Agency shall not give a decision as to whether a proposed activity should be authorised or undertaken until appropriate period has elapsed to consider comments pursuant to sections 7 and 17 of this Act.

9. Decision on the effect of an Environmental Impact Assessment to be in Writing

(1) The Agency's decisions on any proposed activity subject to environmental impact assessment impact assessment shall-
   (a) be in writing;
   (b) state the reason therefore;
   (c) include the provisions, if any, to prevent, reduce or instigate damage to the environment.

(2) The report of the Agency shall be made available to any interested person or group.

(3) If no interested person or group requested for the report, it shall be the duty of the Agency to publish its decision in a manner by which members of the public or persons interested in the activity shall be notified.

(4) The Council may determine an appropriate method in which the decision of the Agency shall be published so as to reach interested persons or groups, in particular the originators or persons interested in the activity subject of the decision.

10. Supervision of the activity

When the Council deems fit and appropriate, a decision on an activity which has been subject of environmental impact assessment, the activity and its effects on the environment or the provisions of section 9 of this Act,
shall be subject to appropriate supervision.

11. Notification to potentially affected States or Local Government Areas, etc.
(1) When information provided as part of an environmental impact assessment indicates that the environment within another State in the Federation or a Local Government Area is likely to be significantly affected by a proposed activity, the State or the Local Government Area in which the activity is being planned shall, to the extent possible—
(a) notify the potentially affected State or Local Government of the proposed activity;
(b) transmit to the affected State or Local Government Area any relevant information of the environmental impact assessment;
(c) enter into timely consultations with the affected State or Local Government.
(2) It shall be the duty of the Agency to see that the provisions of subsection (1) of this section are complied with and the Agency may cause the consultations provided pursuant to subsection (1) of this section to take place in order to investigate any environmental derogation or hazard that may occur during the construction or process of the activity concerned.

12. Mandatory Study List not be carried out without the Report of the Agency
(1) When a project is described on the Mandatory Study List specified in the Schedule to this Act or is referred to mediation or a review panel, no Federal, State or Local Government or any of their authority or agency shall exercise any power or perform any duty or functions that would permit the project to be carried out in whole or in part until the Agency has taken a cause of action conducive to its power under Act establishing it or has taken a decision or issued an order that the project could be carried out with or without conditions. [Schedule]
(2) Where the Agency has given certain conditions before the carrying out of the project, the conditions shall be fulfilled before any person or authority shall embark on the project.

PART II
Environmental Assessment of Projects

13. Cases Where Environmental Assessment Is Required
(1) Notwithstanding the provisions of Part 1 of this Act an environmental impact assessment shall be required where a Federal, State or Local Government Agency Authority established by the Federal, State or Local Government Council—
(a) is the proponent of the project and does any act or thing which commits the Federal, States or Local Government authority to carrying out the project in whole or impact;
(b) makes or authorises payment or provides a guarantee for a loan or any other form of financial assistance to the proponent for the purpose of enabling the project to be carried out in whole or in part, except when the financial assistance, is in the form of any reduction, avoidance, deferral, removal, refund, remission or other form of relief from the payment of any tax, duty or excise under Customs Tariff (Consolidated) Act or any Order made thereunder, unless that financial assistance is provided for the purpose of enabling an individual project specifically named in the enactment, regulation or order that provides the relief to be carried out;
(c) has the administration of Federal, State, or Local Government and leases or otherwise disposes of those lands on or any tests in those lands or transfers the administration and control of those lands or invest therein in favour of the Federal Government or its agencies for the purpose of enabling the project to be carried out in whole or in part; or
(d) under the provisions of any law or enactment, issues a permit of licence, grants an approval or takes any other action for the purpose of enabling the project to be carried out in whole or in part.

14. Excluded Projects
(1) An environment assessment of project shall not be required
(a) in the opinion of the Agency the project is in the list of projects which the President; or the Council is of the opinion that the environmental effects of the projects is likely to be minimal;
(b) the project is to be carried out during national emergency for which temporary measures have been taken by the Government;
(c) The project is to be carried out in response to circumstances that, in the opinion of the Agency, the project is in the interest of the public health or safety.
(2) For greater certainty, where the Federal, State or Local Government exercises power or performs a duty or function for the purpose of enabling projects to be carried out an environmental assessment may not be required if—
15. Environmental Assessment Process
Whenever the Agency decides, that there is the need for an environmental assessment on a project before the commencement of the project the environmental assessment process may include-
(a) a screening or mandatory study and the preparation of a screening report;
(b) a mandatory or assessment by a review panel as provided in section 35 of this Act and the preparation of a report;
(c) the design and implementation of a follow-up program.

16. Factors for consideration of a review panel
(1) Every screening or mandatory study of a project and every mediation or assessment by a review panel shall include a consideration of the following factors, that is—
(a) the environmental effects of the project, including the environmental effects of malfunctions or accidents that may occur in connection with the project and any cumulative environmental effects that are likely to result from the project in taking into consideration with other project that have been or will be carried out;
(b) the significance or, in the case of projects referred to in section 47, 48 or 49, the seriousness of those effects;
(c) comments concerning those effects received from the public in accordance with provisions of this Act;
(d) measures that are technically and economically feasible and that would mitigate any significant or, in the case of projects referred to in of the section 47, 48 or 49 any serious adverse environmental effects of the project.
(2) In addition to the factors set out in subsection (1) of this Act every mandatory study of a project and every mediation or assessment by review panel shall include a consideration of the following factors, that is—
(a) the purpose of the project;
(b) alternative means of carrying out the project that are technically and economically feasible and the environmental effects of any such alternative means:
(c) the need for and the requirement of any follow-up program in respect of the project;
(d) the short-term or long term capacity for regeneration of renewal resources that are likely to be significantly or, in the case of the projects referred to in section 47, 48 or 49, seriously affected by the project; and
(e) any other matter that the Agency or the Council at the request of the Agency, may require.
(3) For greater certainty, the scope of the factors to be taken into consideration pursuant to subsection (1) (a), (b) and subsection (2) (b), (c) and (d) of this Act shall be determined—
(a) by the Agency; or
(b) where a project is referred to mediation or a review panel, by the Council, after consulting the Agency, when fixing the terms of reference of the mediation or review panel.
(4) An environmental assessment of a project shall be required to include a consideration of the environmental effects that could result from carrying out the project during the declaration of a national emergency.

17. Factors not included
(1) The Agency may delegate any part of the screening or mandatory study of a project, including the preparation of the screening report or mandatory study report, but shall not delegate the duty to take a course or action pursuant to section 21(1) or 39(1) of this Act.
(2) For greater certainty, the Agency shall not take a course of action pursuant to section 21(1) or 39(1) of this Act unless it is satisfied that any duty or function delegated pursuant to subsection (1) thereof has been carried out in accordance with the provisions of this Act or any relevant enactment.

18 Screening
(1) Where the Agency is of the opinion that a project is not described in the mandatory study list or any exclusion list, the Agency shall ensure that—
(a) a screening of the project is conducted; and
(b) a screening report is prepared.
(2) Any available information may be used in conducting the screening source of information of a project, but where the Agency is of the opinion that the information available is not adequate to enable it to take a course of action pursuant to section 21(1) of this Act it shall ensure that any study and information that it considers necessary for that purposes are undertaken or collected.
19. Declaration of Class Screening Report

(1) Where the Agency receives a screening report and the Agency is of the opinion that the report could be used as a method in conducting screening of other projects within the same class, the Agency may declare the report to be a class screening report.

(2) Publication
Any declaration made pursuant to subsection (1) of this Act, shall be published in the Gazette and the screening report to which it relates shall be made available to the public at the registry maintained by the Agency.

(3) Use of Class Screening Report
Where, in the opinion of the Agency, a project or part of a project is within a class in respect of which a class screening report has been declared, the Agency may use or permit the use of that report and the screening on which it is based to whatever extent the Agency considers appropriate for the purpose of complying with section 12 of this Act.

(4) Where the Agency uses or permits the use of a class screening report, it shall ensure that any adjustments are made that in the opinion of the Agency are necessary to take into account local circumstances and any cumulative environmental effects that in the opinion of the Agency are likely to result from the project in combination with other projects that have been or will be carried out.

20. Use of Previously Conducted Screening

(1) Where a proponent proposes to carry out, in whole or in part, a project for which a screening report has been prepared but the project did not proceed or the manner in which it is to be carried out has subsequently changed or where a proponent seeks the renewal of a licence, permit or approval referred to in section 5(d) of this Act in respect of a project for which a screening report has been prepared, the Agency may use or permit the use of that report and the screening on which it is based to whatever extent the Agency considers appropriate for the purpose of complying with section 12 of this Act.

(2) Where the Agency uses or permits the use of a screening or screening report pursuant to subsection (1) of this section, the Agency shall ensure that any adjustments are made that in its opinion are necessary to take into account any significant changes in the circumstances of the project.

21. Decision of the Agency

(1) After completion of a screening report in respect of a project the Agency shall take one of the following courses of action, that is—
(a) where, in the opinion of the Agency;
   (i) the project is not likely to cause significant adverse environmental effects, or
   (ii) any such effect can be mitigated, the Agency may exercise any power or perform and duty or function that would permit the project to be carried out shall ensure that any mitigation measures that the Agency considers appropriate are implemented;
(b) where in the opinion of the Agency;
   (i) the project is likely to cause significant adverse environmental effects that may not be mitigable; or
   (ii) public concerns respecting the environmental effects of the project warrant, it the Agency shall refer the project to the Council for a referral to mediation or a review panel in accordance with section 35 of this Act; or
(c) where, in the opinion of the Agency, the project is likely to cause significant adverse environmental effects that cannot be mitigated, the Agency shall not exercise any power or perform any duty or function conferred on it under any enactment that would permit the project to be carried out in whole or in part.

(2) For greater certainty, where the Agency takes a course of action referred to in subsection 1 (a) of this section, the Agency shall exercise any power and perform any duty or function conferred on it by or under any enactment in a manner that ensure that any mitigations measures that the Agency considers appropriate in respect of the project are implemented.

(3) Before taking a course of action in relation to a project pursuant to subsection (1) of this section, the Agency shall give the public an opportunity to examine and comment on the screening report and any record that has been filed in the public registry established in respect of the project pursuant to section 51 of this Act and shall take into consideration any comments that are filed.

22. Mandatory Study
Where the Agency is of the opinion that a project is described in the mandatory study list, the Agency shall—
(a) ensure that a mandatory study is conducted, and a mandatory study report is prepared and submitted to the Agency, in accordance with the provisions of this Act; or
(b) refer the project to the Council for a referral to mediation or a review panel in accordance with section 35 of this Act.

23. Use of Previously Conducted Mandatory Study
(1) Where a proponent proposes to carry out, in whole or in part, a project for which a mandatory study report has been prepared but the project did not proceed or the manner in which it is to be carried out has subsequently changed, or where a proponent seeks the renewal of a licence, permit or approval referred to in section 5(d) of this Act in respect of a project for which a mandatory study report has been prepared, the Agency may use or permit the use of that report and the mandatory study on which it is based to whatever extent the Agency considers appropriate for the purpose of complying with section 12 of this Act.
(2) Where the Agency uses or permits the use of a mandatory study or a mandatory study report pursuant to subsection (1) of this section, it shall ensure that any adjustments are made that in its opinion are necessary to take into account any significant changes in the circumstances of the project.

24. Public Notice
(1) After receiving a mandatory study in respect of project, the Agency shall, in any manner it considers appropriate, publish in a notice setting out the following information—
   (a) the date on which the mandatory study report shall be available to the public;
   (b) the place at which copies of the report may be obtained; and
   (c) the deadline and address for filing comments on the conclusions and recommendations of the report.
(2) Prior to the deadline set out in the notice published by the Agency any person may file comments with the Agency relating to the conclusion and recommendations of the mandatory study report.

25. Decision of Council
After taking into consideration the mandatory study report and any comments filed pursuant to section 24(2), the Council shall—
(a) refer the project to mediation or a review panel in accordance with section 35 of this Act where, in the opinion of the Council—
   (i) the project is likely to cause significant adverse environmental effects that may not be mitigable; or
   (ii) public concerns respecting the environmental effects of the project warrant it; or
(b) refer the project back to the Agency for action to be taken under council section 39(1)(a) of this Act where, in the opinion of the council—
   (i) the project is not likely to cause significant adverse environmental effects; or
   (ii) any such effects can be mitigated.

26. Referral to Council
Where at any time the Agency is of the opinion that—
(a) a project is likely to cause significant adverse environmental effects that may not be mitigable; or
(b) public concerns respecting the environmental effects of the project warrant it, the Agency may refer the project to the Council for a referral to mediation or a review panel in accordance with section 35 of this Act.

27. Termination by Responsible Authority
Where at any time the Agency decides not to exercise any power or perform any duty or function referred to in section 24 of this Act in relation to a project that has not been referred to mediation or a review panel, it may terminate the environmental assessment of the project.

28. Termination by Council
Where at any time Agency decides not to exercise any power to perform any duty or function referred to in section 25 of this Act in relation to a project that has been referred to mediation or a review panel, the Council may terminate the environmental assessment of the project.

29. Referral by Council
Where at any time the Council is of the opinion that—
(a) a project is likely to cause significant adverse environmental effects that may not be mitigable, or
(b) public concerns respecting the environmental effects of the project warrants it, the Council may, after consultation with the Agency, refer the project to mediation or a review panel in accordance with section 35 of this Act.

30. Decision of the Council
Where a project is to be referred to mediation or a review panel under this Act, the Council shall, within a
prescribed period, refer the project—
(a) to mediation, if the Council is satisfied that—
   (i) the parties who are directly by or have a direct interest in the project have been identified and are
       willing to participate in the mediation through representatives, and
   (ii) the mediation is likely to produce a result that is satisfactory to all of the parties; or
(b) to a review panel, in any other case.

31. Appointment of Mediator
   Where a project is referred to mediation, the Council shall, in consultation with the Agency—
   (a) appoint as mediator any person, who, in the opinion of the Council, possesses the required knowledge
       or experience; and
   (b) fix the terms of reference of the mediation.

32. Determination of Parties
   (1) In the case of a dispute respecting the participation of parties in a mediation, the Council may, on the
       request of the mediation, determine those parties who are directly affected by or have a direct interest
       in the project.
   (2) Any determination by the Council pursuant to subsection (1) this section shall be binding.

33. Mediation
   (1) A mediator shall not proceed with a mediation unless the mediator is satisfied that all of the information
       required for a mediation is available to all of the participants.
   (2) A mediation shall, in accordance with the provisions of this Act and the terms of reference of the
       mediation—
       (a) help the participants to reach a consensus on
           (i) the environmental effects that are likely to result from the project;
           (ii) any measures that would mitigate any significant adverse environmental effects, and
           (iii) an appropriate follow-up program;
       (b) prepare a report setting out the conclusions and recommendations of the participants; and
       (c) submit the report to the Council and the Agency.

34. Subsequent References to Review Panel
   Where at any time after a project has been referred to mediation, the Council is of the opinion that the
   mediation is not likely to produce a result that is satisfactory to all of the parties, the Council may terminate
   the mediation and after the project to a review panel.

35. Appointment of Review Panel
   Where a project is referred to a review panel, the Council shall, in consultation with the Agency—
   (a) appoint as members of the panel including the Chairman thereof, person who, in the opinion of the
       Council, possess the required knowledge or experience; and
   (b) fix the terms of reference of the panel.

36. Assessment by Review Panel
   A review panel shall in accordance with the provisions of this Act and its terms of reference—
   (a) ensure that the information required for an assessment by a review panel is obtained and made available
       to the public;
   (b) hold hearing in a manner that offers the public an opportunity to participate in the assessment;
   (c) prepare a report setting out—
       (i) the conclusions and recommendations of the panel relating to the environmental effects of the
           project and any mitigation measures or follow-up program, and
       (ii) a summary of any comments received from the public; and
   (d) Submit the report to the Council and the Agency.

37. Hearing of Witnesses
   (1) A review panel shall be the power to summon any person to appear as witness before the panel and or
       ordering the witness to—
       (a) give evidence, orally or in writing; and
       (b) produce such documents and things as the panel considers necessary for conducting its assessment
           of the project.
   (2) A review panel shall have the same power to enforce the attendance of witness and to compel them to
       give evidence and produce documents and other things as is vested in the Federal High Court or a High
(3) a hearing by a review panel shall be in public unless the panel is satisfied after representation made by a witness that specific, direct and substantial harm would be caused to the witness by the disclosure of the evidence, documents or other things that the witness is ordered to give or produce pursuant to subsection (1) of this section.

(4) Where a review panel is satisfied that the disclosure of evidence documents or other things would cause specific, direct and substantial harm to a witness, the evidence, documents or things shall be privileged and shall not without the authorisation of the witness; knowingly be or be permitted to be communicated, disclosed or made available by any person who has obtained the evidence, documents or other things pursuant to this Act.

(5) Any summons issued or order made by a review panel pursuant to subsection (1) of this section may, for the purposes of enforcement, be made a summons or order of the Federal High Court by following the usual practice and procedure.

38. Public Notice
On receiving a report submitted by a mediator or a review panel the Agency shall make the report available to the public in any manner the Council considers appropriate and shall advise the public that the report is available.

39. Decision of Agency
(1) Following the submission of a report by a mediator or a review panel or the referral of a project back to the Agency pursuant to section 25(b) of this Act, the Agency shall take one of the following courses of action in relation to the project, that is—
   (a) where in the opinion of the Agency—
      (i) the project is not likely to cause significant adverse environmental effect, or
      (ii) any such effect can be mitigated or justified in the circumstances,
         the Agency may exercise any power or perform any duty or function that would permit the project to be carried out in whole or in part and shall ensure that any mitigation measures that the Agency considers appropriate are implemented, or
   (b) where, in the opinion of the Agency, the project is likely to cause significant adverse environmental effects that cannot be mitigated cannot be justified in circumstance, the Agency shall not exercise any power or perform any duty or function conferred on it by or under any enactment that would permit the project to be carried out in whole or in part.

(2) For greater certainty, where the Agency takes a course of action referred to in subsection (1) (a) of this section, it shall exercise any power and perform any duty or function conferred on it by or under any enactment in a manner that ensures that any mitigation measure that the Agency considers appropriate in respect of the project is implemented.

40. Design and Implementation
(1) Where the Agency takes a course of action pursuant to section 39(1)(a) of this Act it shall, in accordance with this Act, design any follow-up programme that it considers appropriate for the project and arrange for the implementation of that program one.

(2) The Agency shall advise the public of—
   (a) its course of action in relation to the project;
   (b) any mitigation measure to be implemented with respect to the adverse environmental effects of the project;
   (c) the extent which recommendations set out in any report submitted by a mediator or a review panel have been adopted; and
   (d) any follow-up program one designed for or in the pursuant to subsection (1) of this section.

41. Certificate
A certificate stating that an environmental assessment of a project has been completed, and signed by the Agency that exercises a power or performs a duty or function referred to in section 35(c) of this Act in relation to the project, is in the absence to the contrary, proof of the matter stated in the certificate.

42. Definition of Jurisdiction
(1) For the purposes of this Act, “jurisdiction” includes—
   (a) a federal authority;
   (b) the government of a State;
   (c) any other agency or body established pursuant to a Act, Law, or Bye-Law or the legislature of a State and
Joint Review Panel

(1) Subject to subsection 2 of this Act, where the referral of a project to a review panel is required or permitted by this Act and a jurisdiction referred to in subsection (1) (e) or (f) of this section, has a responsibility on an authority to conduct an assessment of the environmental effects of the project or any part of it, the Council and the Minister of External Affairs may establish a review panel jointly with that jurisdiction.

(2) The Council shall not establish a review panel jointly with a jurisdiction referred to in subsection 42 of this Act unless the Council is satisfied that—

(a) the Council may appoint or approve the appointment of the Chairman or a co-Chairman and one or more other members of the panel;

(b) the Council may fix or approve the terms of reference for the panel;

(c) the public shall be given an opportunity to participate in the assessment conducted by the panel;

(d) on completion of the assessment, the report of the panel shall be submitted to the Council; and

(e) the panel's report shall be published.

(3) Where the Council establishes a review panel jointly was a jurisdiction referred to in subsection 42 of this Act, the assessment conducted by that panel shall be deemed to satisfy any requirement of this Act, respecting assessment by a review panel.

Substitute for Review Panel

(1) Where the referral of a project to a review panel is required or permitted by this Act and the Council is of opinion that a process for assessing the environmental effects of projects that is followed by a Federal authority under an Act of the National Assembly other than this Act or by a body referred to in section 42(1) (d) of this Act would be appropriate substitute, the Council may approve the substitution of that process for an environmental assessment by a review panel under this Act.

(2) An approval of the Council pursuant to subsection (1) of this section shall be writing and may be given in respect of a project or a class of projects.

Conditions

The Council shall not approve a substitution pursuant to subsection 44(1) of this Act unless the Council is satisfied that—

(a) the process to be substituted includes a consideration of the factors referred to in section 11 of this Act;

(b) the public has been given an opportunity to participate in the assessment;

(c) at the end of the assessment, a report has been submitted to the Council; and

(d) the report has been published

Substitution

Where the Council approves a substitution of a process pursuant to subsection 44(1) of this Act, an assessment that is conducted in accordance with that process shall be deemed to satisfy any requirements of this Act, in respect of assessment by a panel.

Inter States environmental effects

(1) Where a project for which an environmental assessment is not required under section 5 of this Act, is to be carried out in a State and the President is of the opinion that the project is likely to have serious environment effects in another State, the Council may establish a review panel, to conduct an assessment of the inter-State environmental effects of the project.

(2) The Council shall not establish a review panel pursuant to subsection (1) of this section where the President and the governments of all interested States have agreed on another panel of conducting an assessment of the inter State environmental effects of the project.

(3) A review panel may be established pursuant to subsection (1) of this section on the President initiatives of the President or at the request of the government of any interested State.

(4) At least ten days before establishing a review panel pursuant to subsection (1) of this section, the President shall give notice of the intention to establish a penal to the proponent of the project and to the State or all interested States.

(5) For the purposes of this section and section 49(3) of this Act "interested State" means—

(a) a State in which the project is to be carried out; or
(b) a State that claims that serious adverse environmental effect are likely to occur in that State as a result of the project.

48. International Environmental Effects
(1) Where a project for which an environmental assessment is not required under section 5 of this Act is to be carried out in Nigeria or on Federal lands and the President is of the opinion that the project is likely to cause serious adverse environmental effects outside Nigeria and those Federal lands, the Agency and the Minister of Foreign Affairs may establish a review panel to conduct an assessment of the international environmental effects of the project.

(2) At least ten days before establishing a review panel pursuant to subsection (1) of this section, the Agency with the approval of the president shall give notice of the intention to establish a panel to—
(a) the proponent of the project;
(b) the government of any State in which the project is to be carried out or that is adjacent to Federal lands on which the project is to be carried out; and
(c) the government of any foreign State in which, in the opinion of the Minister of foreign Affairs, serious adverse environmental effects are likely to occur as a result of the project.

49. Environmental Effects on Federal and Other Lands
(1) Where a project for which an environmental assessment required under section 15 of this Act is to be carried out in Nigeria and the Agency or the President is of the opinion that the project is likely to cause serious adverse environmental effect of Federal lands or on lands in respect of which a State or Local Government has interest, the Agency or the President may establish a review panel to conduct an assessment of the environmental effects of the project on those lands.

(2) Where a project for which an environmental assessment is not required under section 5 of this Act, is to be carried out on lands in a Local Government land or on lands that have been set aside for the use and benefit of certain class of persons pursuant to legislation and the Agency is of the opinion that the project is likely to cause serious adverse panel to conduct an assessment of the environmental effects of the project outside those lands.

(3) At least ten days before a review panel is established pursuant to subsection (1) or (2) of this section, the Agency shall give notice of the intention to establish a panel to the proponent of the project and to the governments of all interested States and if, in the case of a project that is to be carried out the Agency is of the opinion that:
(a) is likely to cause or have serious adverse environmental effects on lands in a reserve that is set apart for the use and benefit of a certain class of persons, to that class of persons;
(b) on settlement lands described in a comprehensive land claims agreements referred to in subsection (2) of this section to the party to the agreement; and
(c) on lands that have been set aside for the use and benefit of certain class of persons to that class of persons.

(4) For the purposes of this Act, a reference to any land areas or reserves includes a reference to all waters on and air above those lands, areas to reserves.

Section 35 to 38 and 42 to 44 of this Act, shall apply, with such modifications as the circumstances require, to review panel established pursuant to section 47(1), 48(1) or 49(1) or (2) of this Act.

51. Power to Prohibit A Proponent
(1) Where the Agency after the appraisal of the President assessment of the environmental effects of a project referred to in sections 47(1), 48(1) or 49(1) or (2) of this Act, the President may, by order published in the Gazette, prohibit the proponent of the project from doing any act or thing that would commit the proponent to ensuring the project is carried out in whole or in part until assessment is completed and the Agency is satisfied that the project is not likely to cause any serious adverse environmental effect or that any such effects shall be mitigated or are justified in the circumstances.

(2) Where a review panel established to access the environmental effects of a project referred to in subsection 47(1), 48(1) or 49(1) or (2) of this Act. submits a report of the Agency indicating that the project is likely to cause any serious adverse environmental effects, the Agency may prohibit the proponent of the project from doing any act or that would commit the proponent to ensure that the projects is carried out in whole or in part until the Agency is satisfied that such effects have been mitigated.

52. Injunction
(1) Where, on the application of the Agency, it appears to a court of competent jurisdiction that a prohibition made under section 51 of this Act in respect of a project has been, is about to be or is likely to be contravened, the court may issue an injunction ordering any person named in the application to refrain from doing any act or thing that would commit the proponent to ensure that the project or any part
thereof is carried out until—
(a) with respect to a prohibition made pursuant to section 51(1), of the Act the assessment of the environmental effects of the project referred to in section 47(1), 48(1) or 49(1) or (2) of this Act, is completed and the Agency is satisfied that the project is not likely to cause any serious adverse environmental effects or any such effects shall be mitigated or are justified in the circumstances; and
(b) with respect to a prohibition made pursuant to section 51(2), of this Act the Agency is satisfied that the serious adverse environmental effects referred to in that subsection had been mitigated.

(2) At least forty-eight hours before an injunction is issued under subsection (1) of this section, notice of the application shall be given to the persons named in the application unless the urgency of the situation is such that the delay involved in giving such notice would not be in the public interest.

53. Commencement of Prohibition
(1) Any prohibition under section 51 of this Act shall come into force on the day it is made;
(2) The prohibition shall cease to have effect fourteen days after it is made unless within that period, it is approved by the President.

54. International Agreements
(1) Where a Federal authority or the Government of Nigeria on behalf of a Federal authority enters into agreement or arrangement with the government of a State or any institution of such a government under which a Federal authority exercises a power or performs a duty or function referred to in section 15(b) or (c) of this Act in relation to projects—
(a) that have not been identified at the time the power is exercised or the duty or function is performed;
(b) in respect of which the Government of Nigeria or the Federal authority as the case may be, shall have no power to exercise or duty or function to perform when the projects are identified, the Government of Nigeria or the Federal authority concerned shall ensure that the agreement or arrangement provides for the assessment of the environmental effects of those projects and that assessment shall be carried out as early as practicable in the planning stages of those projects.

(2) Where a Federal authority or the Government of Nigeria on behalf of a Federal authority enters into an agreement with the government of a foreign state or of a subdivision of a foreign State, an international organization of a foreign States, any institution of such a government or organization, under which a Federal authority exercises a power or performs a duty or function referred to in section 15(b) or (c) of this Act in relation to the projects—
(a) that have not been identified at the time the power is exercised or the duty or function is performed, and
(b) in respect of which the Government of Nigeria or the Federal authority, as the case may be, shall have no power to exercise or duty or function to perform when the projects are identified,
the Government of Nigeria of the Federal authority shall ensure that the agreement or arrangement provides for the assessment of the environmental effects of those projects and that the assessment shall be carried out as early as practicable in the planning stages of those projects.

55. Public Registry
(1) For the purpose of facilitating public access to records relating to environmental assessments, a public registry shall be established and operated in accordance with the provisions of this Act in respect of every project for which an environmental assessment is conducted.
(2) The public registry in respect of a project shall be maintained—
(a) by the agency from the commencement of the environmental assessment until any follow-up program in respect of the project is completed; and
(b) where the project is referred to mediation or review panel, by the Agency from the appointment of the mediator or the members of the review panel until the report of the mediator or review panel is submitted to Agency or the Secretary to the Government of the Federation as the case may be.

(3) Subject to subsection (4) of this section, a public registry shall contain all records and information produced, collected or submitted with respect to the environmental assessment of the project, including—
(a) any report relating to the assessment;
(b) any comments filed by the public in relation to the assessment; and
(c) any record prepared by the Agency for the purposes of section 35 of this Act.

(4) A public registry shall contain a record referred to in subsection (3) of this section if the record falls within one of the following categories—
(a) a record or part of a record that the Agency, in the case of a record in its possession, or any other Ministry or government agency, determines would have been disclosed to the public if a request
had been made in respect of that record at the time the record was filed with the registry, including any record that would be disclosed in the public interest;
(b) A record or part of a record that the Agency, in the case of a record in its possession, or any other Ministry or government agency, determines would have been disclosed to the public if a request had been made in respect of that record at the time the record was filed with the registry, including any record that would be disclosed in the public interest;
(c) any record or part of a record, except a record or part containing third party information, if the President in the case of a record in the Agency’s possession, or the President believes on reasonable grounds that its disclosure would be in the public interest because it is required in order for the public to participate effectively in the assessment.

(5) Notwithstanding any other enactment, no civil or criminal proceedings shall lie against the Agency; or against any person acting on behalf of or under the direction of the Agency and no proceedings shall lie against the State or any of its agencies for the disclosure in good faith of any record or any part of a record pursuant to this Act, for any consequences that flow from that disclosure and for failure to give any notice if reasonable care is taken to give the required notice.

(6) For the purposes of this section, “third party information” means—
(a) trade secrets of a third party;
(b) financial, commercial, scientific or technical information that is confidential information supplied to a government institution by a third party and is treated consistently in a confidential manner by the third party;
(c) information the disclosure of which could reasonably be expected to result in material financial loss or gain to, could reasonably be expected to prejudice the competitive position of a third party; and
(d) information the disclosure of which could reasonably be expected to interfere with contractual or other negotiations of a third party.

56. Preparation of statistical summary
(1) During each year, the Agency shall maintain a statistical summary of all the environmental assessments undertaken or directed by it and all courses of action taken, and all decisions made, in relations to the environmental effects of the projects after the assessments were completed.

(2) The Agency shall ensure that the summary for each year is compiled and completed within one month after the end of that year.

57. Defect in form or technical irregularity
An application for judicial review in connection with any matter under this Act shall be refused where the sole ground for relief established on the application is a defect in form or a technical irregularity.

PART III
Miscellaneous

58. Power to facilitate environmental assessment
1) For the purposes of this Act, the Agency may—
(a) issue guidelines and codes of practice to assist in conducting assessment of the environmental effects of projects;
(b) establish research and advisory bodies’;
(c) enter into agreements or arrangements with any jurisdiction within the meaning of section 42(1) (a), (b), (c) or (d) respecting assessments of environmental effects;
(d) enter into agreements or arrangements with States for the purposes of coordination, consolation, and exchange of information in relation to the assessment of the environmental effects of projects of common interest;
(e) recommend the appointment of members to bodies established by federal authorities or to bodies referred to in section 42(1)(d) of this Act on a temporary basis, for the purpose of facilitating a substitution pursuant to section 40 of this Act;
(f) establish criteria for the appointment of mediators and members of review panels; and
(g) establish criteria for the approval of a substitution pursuant to section 40 of this Act.

59. Power to make regulations
The Agency, with the approval of the President, may make regulations, published in the Gazette.
(a) respecting the procedures and requirements of, and the time or period relating to the environmental assessment process set out in or including the conduct of assessment by review panels established
pursuant to section 35 of this Act;
(b) prescribing a list of projects of classes of projects for which an environmental assessment is not required, where the Council with the approval of President, is of the opinion that the environmental effects of the projects are likely to be negligible.
(c) prescribing a list of projects or classes of projects not covered by the best of mandatory study list in the schedule to this Act for which a mandatory study is required where the Council is of the opinion that the projects are likely to have significant adverse environmental effects;
(d) prescribing a list of projects or classes of projects for which an environmental assessment is not required, where the council is of opinion that the contribution of the Agency to powers or the performance of its duties or functions is minimal;
(e) prescribing a list for which an environment assessment is acquired where the council is of the opinion that an environmental assessment of the projects would be inappropriate for reasons of national security.

60. Offence and Penalty
Any person who fails to comply with the provisions of this Act shall be guilty of an offence under this Act and on conviction in the case of an individual to ₦100,000 fine or to five years imprisonment and in the case of a firm or corporation to a fine of not less than ₦50,000 and not more than ₦1,000,000.

61. Interpretation
(1) In this Act, unless the context otherwise provides
“Agency” means Nigerian Environmental Protection Agency established by the Federal Environmental Protection Act; [Cap. F10]
“assessment by a review panel” means an environmental assessment that is conducted by a review panel appointed pursuant to section 30 and that includes a consideration of the factors set out in section 11(1) and(2) of this Act;
“council” means the Federal Environmental Protection Council established by the Federal Environmental Protection Agency Act;
“environment” means the components of the Earth, and includes-
(a) land, water and air, including all layers of the atmosphere,
(b) all organic and inorganic matter and living organisms, and
(c) the interacting natural systems that include components referred to in paragraphs (a) and (b);
“environmental assessment” means, in respect of a project, an assessment of the environmental effects of the project that is conducted in accordance with this Act and any regulations made thereunder;
“environmental effect” means, in respect of a project,
(a) any change that project may cause to the environment,
(b) any change the project may cause to the environment, whether any such change occurs within or outside Nigeria, and includes any effect of any such change on health and socio-economic conditions;
“exclusion list” means any list prescribed pursuant to section 61(1) , (b), (d) or (e) of this Act;
“federal authority” means –
(a) a Minister of the Government of the Federation of Nigeria;
(b) an agency of the Government of Nigeria or other body established by or pursuant to an Act, Law or Edict that is ultimately accountable through a Governor of the State of Nigeria in the conduct of its affairs;
“federal lands” means-
(a) lands that belongs to the federal government of Nigeria in which Nigeria has a right thereon or has the power to dispose of and all waters on and air space above those land,
   i. the internal waters of Nigeria within the meaning of the sea fisheries Act 1992, including the sealed and subsoil below and the airspace above those waters, Cap. S4
   ii. the territorial sea of Nigeria as determined in accordance with the Nigeria territorial waters Act, including the seabed and below and the airspace above that sea, Cap. T5
   iii. any fishing zone of Nigeria prescribed under the sea Fisheries Act 1992;
   iv. any exclusive economic zone that may be created by the Government of Nigeria; and
   v. the continental shelf, consisting of the seabed and subsoil of the submarine areas that extend beyond the territorial sea throughout the natural prolongation of the land territory of Nigeria to the outer edge of the continental margin or to a distance of two hundred miles from the inner limits as may be prescribed pursuant to a Act or an Act, and
(b) reserves, surrendered lands and any other lands that are set apart for the use benefit of a class of Nigerians by the federal Government of Nigeria and all waters on and airspace above those reserves or surrendered lands;

“follow-up-program” means a program for—
(a) verifying the accuracy of the environmental assessment of a project and
(b) determining the effectiveness of any measures taken to mitigate the adverse environmental effects of the project;

“mandatory study” means an environmental assessment that is conducted pursuant to section 17 and that include a consideration of the factors set in section 11(1) and (2) of this Act;

“Mandatory study list” means the list in the Schedule to this Act and those that may be prescribed pursuant to section 55(1)(c) of this Act;

“mandatory study report” means a report of a mandatory study that is prepared in accordance with the provision of this Act or any regulation made thereunder;

“mediation” means an environmental assessment that is conducted with the assistance of a mediator appointed pursuant to section 26 of this Act and that includes a consideration of the factors set out in section 11(1) and (2) of this Act;

“mitigation” means, in respect of a project, the elimination, reduction or control of the adverse environmental effects of the project, and includes restriction for any damage to the environment caused by such effects through replacement, restoration, compensation or any other means;

“prescribed” means prescribed by regulations;

“project” means a physical work that a proponent proposes to construct, operate, modify, decommission, abandon or otherwise carry out or a physical activity that a proponent proposes to undertake or otherwise carry out;

“proponent”, in respect of a project, means the person, body or federal authority that proposes the project;

“record” includes any correspondence, memorandum, book, plan, map drawing, diagram, pictorial or graphic work, photograph, film, microform, sound recording, videotape, machine readable record, and any other documentary material, regardless of physical form or characteristics, and any copy thereof;

“responsible authority”, in relation to a project, means a Federal authority that is required pursuant to subsection 7(1) of this Act to assure that an environmental assessment of the project is conducted;

“responsible Minister” means, in respect of a responsible authority,
(a) in the case of a department or ministry of State, the Minister or Commissioner presiding over that department or ministry, and
(b) in any other case such member of the National Executive Council or state Executive Council as is designated as the responsible Minister or Commissioner for that responsible authority;

“screening” means an environmental assessment that is conducted pursuant to section 13 of this Act and that includes a consideration of the factors set out in section 17(1) of this Act;

“screening report” means a report that summarizes the results of a screening.

(2) For the purposes of this Act, a Company is controlled by another company if-
(a) securities of the corporation to which are attached more than fifty per cent of the votes that may be cast to elect directions of the corporation are held, other than by way of security only, by or for the benefit of that corporation; and
(b) the votes attached to those securities are sufficient, if exercised to elect a majority of the directors of the corporation.

62. Short title
This Act may be cited as the Environmental Impact Assessment Act 1992.
Schedule
[Section 12]

Mandatory Study Activities

1. Agriculture
   (a) Land development schemes covering an area of 500 hectares or more to bring forest land into agricultural production.
   (b) Agricultural programmes necessitating the resettlement of 100 families or more.
   (c) Development of agricultural estates covering an area of 500 hectares or more involving changes in types of agricultural use.

2. Airport
   (a) Construction of airports (having an airstrip of 2,500 metres longer).
   (b) Airstrip development in State and national parks.

3. Drainage and Irrigation
   (a) Construction of dams and man-made lakes and artificial enlargement of lakes with surface areas of 200 hectares or more.
   (b) Drainage of wetland, wildlife habitat or of virgin forest covering an area of 100 hectares or more.
   (c) Irrigation schemes covering an area of 5,000 hectares or more.

4. Land Reclamation
   (a) Coastal reclamation involving an area of 50 hectares or more.

5. Fisheries
   (a) Construction of fishing harbours.
   (b) Harbour expansion involving an increase of 50 per cent or more in fish landing capacity per annum.
   (c) Land based aquaculture projects accompanied by clearing of mangrove swamp forests covering an area of 50 hectares or more.

6. Forestry
   (a) Conversion of hill forest land to other land use covering an area of 50 hectares or more.
   (b) Logging or conversion of forest land to other land use within the catchment area of reservoirs used for municipal water supply, irrigation or hydro power generation or in areas adjacent to state and national parks and national marine parks.
   (c) Logging covering an area of 500 hectares or more.
   (d) Conversion of mangrove swamps for industrial, housing or agricultural use covering an area of 50 hectares or more.
   (e) Clearing of mangrove swamps on islands adjacent to national marine parks.

7. Housing
   Housing development covering an area of 50 hectares or more.

8. Industry

   | (a) Chemical | Where production capacity of each product or of combined product is greater than 100 tonnes/day |
   | (b) Petrochemicals | All sizes. |
   | (c) Non-ferrous | Primary smelting |
   | | Aluminium - all sizes |
   | | Copper - all sizes |
   | | Others - producing 60 tonnes/day and above of product. |
   | (d) Non-metallic | Cement - for clinker throughout of 30 tonnes/hour and at above 100 tonnes/day and above burnt lime rotary kiln or 50 Tonnes/day and above vertical kiln. |
   | (e) Iron and steel | Required iron ore as raw materials for production greater than 100 tonnes/day; or Using scrap irons as raw materials for production greater than 200 tonnes day. |
   | (f) Shipyards | Dead Weight Tonnage greater than 5000 tonnes. |
   | (g) Pulp and Paper industry | Production capacity greater than 50 tonnes/day. |
9. **Infrastructure**
   (a) Construction of hospitals with outfall into beachfronts used for recreational purposes.
   (b) Industrial estate development for medium and heavy industries covering an area of 50 hectares or more.
   (c) Construction of expressways.
   (d) Constructions of national highways.
   (e) Construction of new townships.

10. **Ports**
    (a) Construction of ports.
    (b) Port expansion involving an increase of 50 percent or more in handling capacity per annum.

11. **Mining**
    (a) Mining of materials in new areas where the mining lease covers a total area in excess of 250 hectares.
    (b) Ore processing, including concentrating for aluminium, copper gold or tantalum.
    (c) Sand dredging involving an area of 50 hectares or more.

12. **Petroleum**
    (a) Oil and gas fields development.
    (b) Construction of offshore pipelines in excess of 50 kilometers in length.
    (c) Construction of oil and gas separation, processing, handling, and storage facilities.
    (d) Construction of oil refineries.
    (e) Construction of product depots for the storage of petrol, gas or diesel (excluding service stations) which are located within 3 kilometers of any commercial, industrial or residential areas and which have a combined storage capacity of 60,000 barrels or more.

13. **Power Generation and Transmission**
    (a) Construction of steam generated power stations burning fossil fuels and having a capacity of more than 10 megawatts.
    (b) Dams and hydroelectric power schemes with either or both of the following:
       i. Dams over 15 metres high and ancillary structures covering a total area in excess of 40 hectares;
       ii. Reservoirs with a surface area in excess of 400 hectares.
    (c) Construction of combined cycle power stations.
    (d) Construction of nuclear-fuelled power stations.

14. **Quarries**
    (b) Proposed quarrying of aggregate, limestone, silica, quartzite, sandstone, marble and decorative building stone within 3 kilometres of any existing residential, commercial or industrial areas, or any area for which a licence permit or approval has been granted for residential, commercial or industrial development.

15. **Railways**
    (a) Construction of new routes.
    (b) Construction of branch lines.

16. **Transportation**
    Construction of Mass Rapid Transport projects.

17. **Resort and Recreational Development**
    (a) Constructions of coastal resort facilities or hotels with more than 80 rooms.
    (b) Hill station resort or hotel development covering an area of 60 hectares or more.
    (c) Development of tourist or recreational facilities in national parks.
    (d) Development of tourist or recreational facilities on islands in surrounding waters, which may be, declared as national marine parks.

18. **Waste Treatment and Disposal**
    (a) Toxic and Hazardous Waste
       i. Construction of incineration plant
       ii. Construction of recovery plant (off-set)
       iii. Construction of waste water treatment plant (off-set)
       iv. Constructions of secure landfill facility.
       (v) Construction of storage facility (offset).
    (b) Municipal solid waste
       i. Construction of incineration plant.
ii. Construction of composting plant
iii. Construction of recovery/recycling plant.
iv. Construction of municipal solid waste landfill facility.

(c) (i) Construction of waste water treatment plant.
(ii) Construction of marine outfall.

19. **Water Supply**
   (a) Construction of dams, impounding reservoirs with a surface area of 200 hectares or more.
   (b) Groundwater development for industrial, agricultural or urban water supply of greater than 4,500 cubic metres per day.
EXCLUSIVE ECONOMIC ZONE ACT

ARRANGEMENT OF SECTIONS

SECTION
1. Delimitation of Exclusive Economic Zone of Nigeria.
2. Exploitation, etc. of Exclusive Zone.
3. Power to erect installations, etc. and offences in relation thereto.
4. Applicability of criminal and civil laws, etc.
5. Offences by bodies corporate.
6. Interpretation.

EXCLUSIVE ECONOMIC ZONE ACT

1978 No. 28. Cap. E17
An Act to delimit the Exclusive Economic Zone of Nigeria being an area extending up to 200 nautical miles seawards from the coasts of Nigeria. Within this Zone, and subject to universally recognised rights of other States (including land-locked States), Nigeria would exercise certain sovereign rights especially in relation to the conservation or exploitation of the natural resources (minerals, living species, etc.) of the seabed, its subsoil and superjacent waters and the right to regulate by law the establishment of artificial structures and installations and marine scientific research, amongst other things.

Commencement. [2nd October, 1978]

1. Delimitation of Exclusive Economic Zone of Nigeria
   (1) Subject to the other provisions of this Act, there is hereby denominated a zone to be known as the Exclusive Economic Zone of Nigeria (hereinafter referred to as the “Exclusive Zone”) which shall be an area extending from the external limits of the territorial waters of Nigeria up to a distance of 200 nautical miles from the baselines from which the breadth of the territorial waters of Nigeria is measured.

   (2) The provisions of subsection (1) of this section shall not be applicable to the extent that under the provisions of any treaty or other written agreement between Nigeria and any neighbouring territorial State, the Exclusive Zone is agreed to be less that the distance specified in subsection (1) of this section.

2. Exploitation, etc. of Exclusive Zone. Cap. 428, Cap. 350, Cap. 404. [Cap T5, Cap P10, Cap S4]
   (1) Without prejudice to the Territorial Waters Act, the Petroleum Act or the Sea Fisheries Act, sovereign and exclusive rights with respect to the exploration and exploitation of the natural resources of the sea bed, subsoil and superjacent waters of the Exclusive Zone shall vest in the Federal Republic of Nigeria and such rights shall be exercisable by the Federal Government or by such Minister or agency as the Government may from time to time designate in that behalf either generally or in any special case.

   (2) Subsection (1) of this section shall be subject to the provisions of any treaty to which Nigeria is a party with respect to the exploitation of the living resources of the Exclusive Zone.

3. Power to erect installations, etc. and offences in relation thereto
   (1) For the purpose of exploring and exploiting, conserving and managing the natural resources and other activities for the economic exploitation and exploration of the Exclusive Zone, the appropriate authority may establish, or permit the establishment, operation and use by any other person subject to such conditions as may be prescribed, in designated areas-
      (a) artificial islands.
      (b) installations and structures.

   (2) The appropriate authority may for the purpose of protecting any installation in a designated area by order published in the Federal Gazette, prohibit ships, subject to any exceptions provided in the order, from entering without its consent such part of that area as may be specified in such order.
If any ship enters any part of a designated area in contravention of an order made under this section, its owner or master shall be liable on conviction to a fine of ₦5,000 (five hundred naira) or imprisonment for twelve months or to both unless he proves that the prohibition imposed by the order was not, and would not on reasonable inquiry have become, known to the master.

In this section, “designated area” means any area of the Exclusive Zone so designated by the appropriate authority for the purposes of subsection (1) of this section.

Applicability of criminal and civil laws, etc

(1) Any act or omission which -
(a) takes place on, under or above an installation in a designated area or any waters within 200 meters of such an installation; and
(b) would, if taking place in any part of Nigeria, constitute an offence under the enactment in force in that part, shall be treated for the purposes of that law as taking place in Nigeria.

(2) Offences under subsection (1) of this section shall be triable by the Federal High Court whether or not such offence would, if actually committed in Nigeria, be triable under the applicable enactment by a court other than the Federal High Court.

(3) The prosecution of any offence under this Act shall be at the instance of the Attorney General of the Federation.

(4) In this section, “enactment” means any Act or Law relating to criminal or civil law (including torts) and any subsidiary instrument made thereunder including rules of court and, in matters other than criminal matters, rules of law applicable to or adopted in any part of Nigeria.

Offences by bodies corporate

(1) Where a body corporate is guilty of any offence under this Act and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or of any person who was purporting to act in any such capacity he, as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) For the purposes of this section, “director” in relation to a body corporate established for the purpose of carrying on under national ownership any industry or part of an industry or undertaking being a body corporate whose affairs are managed by its members, means a member of that body corporate.

Interpretation

In this Act, unless the context otherwise requires-
“the appropriate authority” means the Federal Government or any other person or authority designated in that behalf by the Federal Government by virtue of section 2 of this Act;
“designated area” has the meaning assigned thereto by section 3(4) of this Act,
“the Exclusive Zone” means the Exclusive Economic Zone of Nigeria as delimited by section 1 of this Act;
“territorial waters of Nigeria” has the meaning assigned thereto by the Territorial Waters Act.

Short title

This Act may be cited as the Exclusive Economic Zone Act.
PART 1

Establishment, Membership, Functions and Powers of the Federal Environmental Protection Agency

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2. Membership of the Agency.
3. Establishment and functions of the Technical Committee.
4. Removal from office of member of the Agency.
5. Functions of the Agency.
6. Powers of the Agency to give grants, etc.
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FEDERAL ENVIRONMENTAL PROTECTION AGENCY ACT 1988
[CAP. F10]

1988 No. 58.
An act to establish the Federal Environmental Protection Agency with its functions and the powers for the effective implementation of such functions.

Commencement. [30th December, 1988]

PART I
Establishment, Membership, Functions and Powers of the Federal Environmental Protection Agency

1. Establishment of the Federal Environmental Protection Agency
There is hereby established a body to be known as the Federal Environmental Protection Agency (hereinafter in this Act referred to as “the Agency”) which under that name shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name.

2. Membership of the Agency
(1) There shall be as the governing body of the Agency a Council which shall consist of a Chairman to be appointed by the Head of State, Commander-in-Chief of the Armed Forces and the following other members, that is –
   (a) the Permanent Secretaries charged with responsibility for –
      (i) Agriculture and Natural Resources,
      (ii) Commerce and Tourism,
      (iii) Communications,
      (iv) Education,
      (v) Finance,
      (vi) Health,
      (vii) Industry,
      (viii) Petroleum Resources,
      (ix) Science and Technology,
      (x) Solid Minerals,
      (xi) Transport,
      (xii) Works and Housing,
      (xiii) Youth and Sports; and
   (b) two other persons from the private sector who shall have distinguished themselves in environmental matters.

(3) The supplementary provisions contained in the Schedule to this Act shall have effect with respect to the proceedings of the Agency and the other matters therein mentioned.

3. Establishment and functions of the Technical Committee
(1) There is hereby established for the Agency, a technical committee to be known as the Federal Environmental Protection Agency Technical Committee (in this Act referred to as “the Technical Committee”)

(2) The Technical Committee shall consist of the following members, that is -
   (a) a chairman who shall be the Director-General and Chief Executive of the Agency
   (b) three distinguished persons having wide knowledge and possessing such skills and expertise in environmental matters
   (c) one representative each of the following Ministers not below the rank of a Director, that is
      (i) Agriculture, Water Resources and Rural Development
      (ii) Finance
(iii) Health and Human Services  
(iv) Industries and Technology  
(v) Petroleum and Mineral Resources  
(vi) Works and Housing  
(vii) Transport and Communications  
(viii) Education and Youth Development  

(d) a representative each of—  
(i) the Manufacturers’ Association of Nigeria; and  
(ii) the Nigerian Conservation Foundation  

(3) The functions of the Technical Committee shall be—  
(a) to assist and advise the Council and the Agency in the performance of their functions under this Act; and  
(b) to give technical opinion on issues referred to it or delegated by the Council (1992 No. 59)  

4. Removal from office of member of the Agency  
The office of a member who is not a public officer shall become vacant if he resigns his office by a letter addressed by him to the President, or if the President is satisfied that it is not in the interest of the Agency for the person appointed to continue in office as a member, in which case the president shall notify the member in writing to that effect.  

5. Functions of the Agency  
The Agency shall, subject to this Act, have responsibility for the protection and development of the environment in general and environmental technology, including initiation of policy in relation to environmental research and technology; and without prejudice to the generality of the foregoing, it shall be the duty of the Agency to—  
(a) prepare a comprehensive national policy for the protection of the environment and conservation of natural resources, including procedure for environmental impact assessment for all development project.  
(b) Prepare, in accordance with the national Policy on the Environment, periodic master plans for the development of environmental science and technology and advise the Federal Government on the financial requirements for the implementation of such plans.  
(c) advise—  
(i) advise the Federal Military Government on national environmental policies and priorities, the conservation of natural resources and sustainable development.  
(ii) the President on the utilisation of the one percent Ecological Fund for the protection of the environment.  

(d) promote co-operation in environmental science and conservation technology with similar bodies in other countries and with international bodies connected with the protection of the environment and conservation of natural resources;  
(e) co-operate with Federal and State Ministries, Local Government, statutory bodies and research agencies on matters and facilities relating to environmental protection of the environment and the conservation of natural resources;  
(f) carry out such other activities as are necessary or expedient for the full discharge of the functions of the Agency under this Act. [1992 No. 59]  

6. Powers of the Agency to give grants, etc.  
In carrying out the functions prescribed in section 5 of this Act and in other provisions of this Act, it shall be lawful for the Agency to— [1992 No. 59]  
(a) make grants to suitable authorities and bodies with similar functions for demonstration and for such other purposes as may be determined appropriate to further the purposes and provisions of this Act;  
(b) collect and make available, through publications and other appropriate means and in co-operation with public or private organisations, basic scientific data and other information pertaining to pollution and environmental protection matters; [1992 No. 59]  
(c) enter into contracts with public or private organisations and individuals for the purpose of executing and fulfilling its functions and responsibilities pursuant to this Act;  
(d) establish, encourage and promote training programmes for its staff and other appropriate individual from public or private organisations;  
(e) enter into agreements with public or private organisations and individuals to develop, utilise, co-ordinate and share environmental monitoring programmes, research effects, basic data on chemical, physical and biological effects of various activities on the environment and other environmentally related activities as appropriate;  
(f) establish advisory bodies composed of administrative, technical or other experts in such environmental areas to assist it in carrying out the purposes and provisions of this Act; [1992 No. 59]  
(g) establish such environmental criteria, guidelines, specifications or standards for the protection of the
nation’s air and inter-State waters as may be necessary to protect the health and welfare of the population from environmental degradation;

(h) establish such procedures for industrial or agricultural activities in order to minimise damage to the environment from such activities;

(i) maintain a programme of technical assistance to bodies (public or private) concerning implementation of environmental criteria, guidelines, regulations and standards and monitoring enforcement of the regulations and standards thereof; and [1992 No. 59]

(j) develop and promote such processes, methods, devices and materials as may be useful or incidental in carrying out the purposes and provisions of this Act.

7. **Power of the Minister to give directions**

Subject to this Act, the Minister may give to the Agency directions of a general nature or relating generally to particular matters, but not to any particular individual or case with regard to the performance by the Agency of its functions under this Act and it shall be the duty of the Agency to comply with the directions.

8. **Director and other staff of the Agency**

   (1) There shall be appointed by the President a Director-General of the Agency.

   (2) The Director-General who shall be the chief executive of the Agency shall hold office in the first instance for five years, and thereafter, shall be eligible for re-appointment for one further term of five years only, on terms and conditions as may be specified in his letter of appointment.

   (3) The Agency may appoint such other persons to be employees of the Agency as it may deem fit, on such terms and conditions as may be determined by the Agency.

   (4) The Agency shall, with the approval of the President, make staff regulations governing conditions of service of its employees.

   (5) The Agency may grant loans to its employees for purposes approved by the President.

9. **Pensions**

   (1) It is hereby declared that service in the Agency shall be public service for the purposes of the Pensions Act and accordingly officers and other such staff of the Agency shall in respect of their services be entitled to such pensions, gratuities and other retirement benefits as are prescribed thereunder. Cap. 346 [Cap P4]

   (2) For the purposes of the application of the provisions of the Pensions Act, any powers exercisable thereunder by a Minister or other authority of the Government of the Federation (not being the power to make regulations under section 23 thereof) are hereby vested in and shall be exercisable by the Agency and not by any other person or authority.

10. **Power of the Director-General. [1992 No. 59]**

    The Director-General shall, subject to the policies laid down by the Agency, develop programmes to carry out the purposes and provisions of this Act and without prejudice to the generality of the foregoing, shall, in particular and in consultation with appropriate agencies-

    (a) establish programmes for the prevention, reduction and elimination of pollution of the nation’s air, land and inter-State waters, as well as national programmes for restoration and enhancement of the nation’s environment:

    (b) encourage and promote the co-ordination of environmentally related activities at all levels;

    (c) utilise and promote the expansion of research, experiments, surveys and studies by public or private agencies, institutions and organisations concerning causes, effects, extent, prevention, reduction and elimination of pollution and such other matters related to environmental protection as the Agency may, from time to time, determine necessary and useful; and

    (d) conduct public investigations on pollution and the degradation of natural resources.

11. **Power to accept gifts etc.**

    (1) Subject to subsection (2) of this section, the Agency may accept gifts of land, money, books or other property upon such terms and conditions, if any, as may be specified by the person making the gift.

    (2) The Agency shall not accept any gift if the conditions attached thereto by the person making the gift are inconsistent with the functions of the Agency under this Act.

12. **Residence, offices and premises**

    (1) For the purposes of providing residential accommodation for its staff, offices and premises as may be considered necessary for the performance of its functions under this Act, the Agency may-

        (a) purchase or take on lease any interest in land; and

        (b) build, furnish, equip and maintain residential quarters offices and premises.

    (2) Subject to the Land Use Act, the Agency may, with the approval of the Minister, sell or lease any residential quarters, land, offices or premises held by it and no longer required for the performance of its functions. [Cap L5]
(1) The Agency shall establish and maintain a fund from which there shall be defrayed all expenses incurred by the Agency in the performance of the Agency’s duties and functions under this Act.
(2) The fund established under subsection (1) of this section shall consist of the following
(a) 25 percent of the one percent Ecological Fund of the Federation Account
(b) such sums as may, from time to time be granted to the Agency by the Federal Government;
(b) all moneys raised for the purposes of the Agency by way of gifts, grants-in-aid, testamentary dispositions and sales of publications;
(c) all subscriptions, fees and charges for services rendered by the Agency and all other sums that may accrue to the Agency from any source.

14. Borrowing power
(1) The Agency may, with the consent of the President or in accordance with the general authority given by the Federal Government, borrow by way of loan or overdraft from any source any moneys required by the Agency to meet its obligations and its functions under this Act, so however that no such consent or authority shall be required where the sum or aggregate of the sums involved at any time does not exceed such amount as is for the time being specified in relation to the Agency by the Federal Government.
(2) The Agency may, subject to the provisions of this Act and the conditions of any trust in respect of any property, invest all or any of its funds with the like consent or general authority.
(3) The Agency may invest any of its surplus funds in such securities as may be permitted by law.

15. Annual estimates accounts and audit
(1) The Agency shall cause to be prepared not later than six months before the end of each year an estimate of the expenditure and income of the Agency during the next succeeding financial year and when prepared they shall be submitted to the Minister.
(2) The Agency shall cause to be kept proper accounts and proper records in relation thereto and when certified by the Agency such accounts shall be audited as provided in subsection (3) of this section.
(3) The accounts of the Agency shall be audited as soon as may be practicable after each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General of the Federation.

PART II
National Environmental Standards Water Quality

16. Federal water quality standards
(1) The Agency shall make recommendations to the President for the purpose of establishing water quality standards for the inter-State waters of Nigeria to protect the public health or welfare and enhance the quality of water to serve the purposes of this Act.
(2) In establishing such standards, the Agency shall take into consideration the use and value for public water supplies, propagation of fish and wildlife, recreational purposes, agricultural, industrial and other legitimate uses.
(3) The Agency shall establish different water quality standards for different uses.

17. Effluent limitations
(1) The Agency shall, as soon as possible after the commencement of this Act, establish effluent limitations for new point sources which shall require application of the best control technology currently available and implementation of the best management practices.
(2) The Agency shall, as soon as possible after the commencement of this Act, establish effluent limitations for existing point sources which shall require the application of the best management practices under circumstances as determined by the Agency, and shall include schedules of compliance for installation and operation of the best practicable control technology as determined by the Agency.

Air Quality and Atmospheric Protection

18. Air quality etc.
(1) The Agency shall establish more criteria, guidelines, specifications and standards to protect and enhance the quality of Nigeria’s air resources so as to promote the public health or welfare and the normal development and productive capacity of the nation’s human, animal or plant life, and include in particular-
(a) minimum essential air quality standards for human, animal or plant health:
(b) the control of concentration of substances in the air which separately or in combination are likely to result in damage or deterioration of property or of human, animal or plant health;
(c) the most appropriate means to prevent and combat various forms of atmospheric pollution;
(d) controls for atmospheric pollution originating from energy sources, including that produced by aircraft and other self-propelled vehicles and in factories and power generating stations;
(e) standards applicable to emission from any new mobile source which in the Agency’s judgement causes or contributes to air pollution which may reasonably be anticipated to endanger public health or welfare; and
(f) the use of appropriate means to reduce emission to permissible levels.

(2) The Agency may establish monitoring stations or networks to locate sources of atmospheric pollution and determine their actual or potential danger.

19. Ozone protection
(1) The Agency shall undertake to study data and recognise developments in international force and other countries regarding the cumulative effect of all substances, practices, processes and activities which may effect the stratosphere, especially ozone in the stratosphere.

(2) The Agency may make recommendations and programmes for the control of any substance, practice, process or activity which may reasonably be anticipated to effect the stratosphere, especially ozone in the stratosphere, when such effect may reasonably be anticipated to endanger public health or welfare.

(3) For the purposes of this section, “stratosphere” means that part of the atmosphere above the troposphere.

Noise

20. Noise control
(1) The Agency shall, as soon as practicable after the commencement of this Act in consultation with appropriate authorities-
(a) identify major noise sources, noise criteria and noise control technology; and
(b) establish such noise abatement programmes and noise emission standards as it may determine necessary to preserve and maintain public health or welfare.

(2) Any noise criteria identified under this section shall reflect the scientific knowledge most useful in indicating the kind and extent of all identifiable effects on the public health or welfare which may be expected from differing qualities and quantities of noise.

(3) The Agency shall make recommendations to control noise originating from industrial, commercial, domestic, sports, recreational, transportation or other similar activities.

Hazardous substances, etc.

21. Discharge of hazardous substances
(1) The discharge in such harmful quantities of any hazardous substance into the air or upon the land and the Waters of Nigeria or at the joining shorelines is prohibited, except where such discharge is permitted or authorised under any law in force in Nigeria.

(2) Any person who violates the provisions of subsection (1) of this section commits an offence and shall on conviction be liable to a fine not exceeding ₦100,000 (one hundred thousand naira) or to imprisonment for a term not exceeding 10 years or to both such fine and imprisonment.

(3) Where an offence under subsection (1) of this section is committed by a body corporate it shall on conviction be liable to a fine not exceeding ₦500,000 (five hundred thousand naira) and an additional fine of ₦1,000 (one thousand naira) for every day the offence subsists.

(4) Where any offence under this Act has been committed by a body corporate, the body corporate and every person who at the time the offence was committed was in charge of, or was responsible to the body corporate for the conduct of the business of the body corporate shall be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly. Provided that nothing contained in this subsection shall render any person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(5) The Agency shall, as soon as possible after the commencement of this Act, determine for the purposes of this section what substances are hazardous substances and such hazardous substance the discharge of which shall be harmful under the circumstances to public health or welfare and, for this purpose, the
Agency shall take into account such special circumstances including locations, quantity and climatic conditions relating to discharge as it may determine appropriate.

(6) Notwithstanding the provisions of this section or of any other sections of this Act the provisions of the Harmful Waste (Special Criminal Provisions, etc.) Act shall apply in respect of any hazardous substance constituting harmful waste as defined in section 15 thereof. [Cap. H1]

22. Spiller's liability

(1) Except where an owner or operator can prove that a discharge was caused solely by a natural disaster or an act of war or by sabotage, such owner or operator of any vessel or onshore or offshore facility from which the hazardous substance is discharged in violation of section 21 of this Act, shall in addition to the penalty specified in that section be liable for -
   (a) the cost of removal thereof, including any costs which may be incurred by any Government body or agency in the restoration or replacement of natural resources damaged or destroyed as a result of the discharge; and
   (b) costs of third parties in the form of reparation, restoration, restitution or compensation as may be determined by the Agency from time to time.

(2) The owner or operator of a vessel or onshore or offshore facility from which there is a discharge in violation of section 21 of this Act shall, to the fullest extent possible, act to mitigate the damage by-
   (a) giving immediate notice of the discharge to the Agency and any other relevant agencies.
   (b) beginning immediate clean-up operations following the best available clean-up practice and removal methods as may be prescribed by regulations made under section 23 of this Act; and
   (c) promptly complying with such other directions as the Agency may from time to time, prescribe.

23. Removal methods, etc.

The President for purposes of this Part of this Act may, by regulations, prescribe any specific removal methods, national contingency plans, financial responsibility levels for owners or operators of vessels, or onshore or offshore facilities, notice and reporting requirements, penalties and compensation as he may determine necessary to minimise pollution by any hazardous substance.

24. Co-operation with the Ministry of Petroleum Resources

The Agency shall co-operate with the Ministry of Petroleum Resources (Petroleum Resources Department) for the removal of oil related pollutants discharged into the Nigerian environment and play such supportive role as the Ministry of Petroleum Resources (Petroleum Resources Development) may from time to time request from the Agency.

PART III
Establishment of State and Local Government Environmental Protection Bodies

25. Establishment of State and Local Government Bodies

The Minister shall, as soon as possible after the Commencement of this Act encourage States and Local Government Councils to set up their own Environmental Protection Bodies for the purpose of maintaining good environmental quality in the areas of related pollutants under their control subject to the provisions of this Act.

PART IV
Supplementary and Miscellaneous

Enforcement Powers

26. Powers to inspect, etc.

For the purposes of enforcing this Act, any authorised officer may without a warrant-
   (a) require to be produced, examine and take copies of any licence, permit, certificate or other document required under this Act or any regulations made thereunder:
   (b) require to be produced and examine any appliance, device or other item used in relation to environmental protection.

27. Powers to search, seize and arrest

(1) Any authorised officer, where he has reasonable grounds for believing that an offence has been committed against this Act or any regulations made thereunder, may without a warrant-
   (a) enter and search any land, building, vehicle, tent, vessel, floating craft or any inland water or other
structure whatsoever, in which he has reason to believe that an offence against this Act or any regulations made thereunder has been committed:

(b) perform tests and take samples of any substances relating to the offence which are found on the land, building, vehicle, tent, vessel, floating craft or any Inland water or other structure whatsoever, searched pursuant to paragraph (a) of this subsection;

(c) cause to be arrested any person who he has reason to believe has committed such offence; and

(d) seize any item or substance which he has reason to believe has been used in the commission of such offence or in respect of which the offence has been committed.

(2) A written receipt shall be given for any article or thing seized under subsection (1) of this section and the grounds for such seizure shall be stated on such receipt.

28. Obstruction of authorised officers

Any person who-

(a) wilfully obstructs any authorised officer in the exercise of any of the powers conferred on him by this Act; or

(b) fails to comply with any lawful enquiry or requirements made by any authorised officer in accordance with the provisions of section 26 of this Act, commits an offence and shall on conviction be liable to a fine not exceeding N500,000 (five hundred thousand naira) or to imprisonment for a term not exceeding 10 years or to both such fine and imprisonment.

29. Authorised officers to disclose identity

(1) Any authorised officer, not in uniform when acting under the provisions of this Act, shall, on demand, declare his office and produce to any person against whom he is taking action such identification or written authority as may reasonably be sufficient to show that he is an authorised officer for the purposes of this Act.

(2) It shall not be an offence for any person to refuse to comply with any request, demand or order made by any authorised officer not in uniform, if such authorised officer refuses, on demand being made by such person, to declare his office or produce such identification or written authority.

30. Procedure in respect of suits against the Agency

(1) No suit against the Agency, a member of the Agency or any employee of the Agency for any act done in pursuance or execution of any law, or of any public duties, or in respect of any alleged neglect or default in the execution of such law, duties or authority, shall lie or be instituted in any court unless it is commenced within twelve months next after the act, neglect or default complained of or, in the case of a continuance of damage or injury within twelve months next after the ceasing thereof.

(2) No suit shall be commenced against the Agency before the expiration of a period of one month after written notice of intention to commence the suit shall have been served upon the Agency by the intending plaintiff or his agent; and the notice shall clearly and explicitly state

(a) the cause of action:

(b) the particulars of the claim:

(c) the name and place of abode of the intending plaintiff: and

(d) the relief which he claims.

31. Service of documents

The notice referred to in section 30 (2) of this Act and any summons, notice or other document required or authorised to be served upon the Agency under the provisions of this Act or any other law may be served by delivering the same to the Chairman or the Director, or by sending it by registered post addressed to the Director at the Secretariat of the Agency.

32. Restriction on execution against the property of the Agency

In any action or suit against the Agency no execution or attachment or process in the nature thereof shall be issued against the Agency but any sums of money which by judgement of the court is awarded against the Agency shall, subject to any directions given by the Agency, be paid from the general reserve fund of the Agency.

33. Indemnity of members of the Agency and employees of the Agency

Every member of the Agency, agent, auditor or employee for the time being of the Agency shall be indemnified out of the assets of the Agency against any liability incurred by him in defending any proceeding whether civil or criminal, if any such proceeding is brought against him in capacity as such member, agent, auditor or employee as aforesaid.

34. Annual Report

The Agency shall, not later than 30th September in each year submit to the Minister a report on the activities of the Agency and its administration during the immediately preceding year and shall include in such report the audited accounts of the Agency.
35. Material misrepresentation and impersonation
(1) If a person knowingly or recklessly makes any statement in purported compliance with a requirement to furnish information which is false in a material particular, he commits an offence and shall on conviction be liable to a fine not exceeding N200 or imprisonment for a term not exceeding one year or to both such fine and imprisonment.
(2) Any person who falsely represents himself to be an authorised officer of the Agency and assumes to do any act or to attend in any place for the purpose of doing any act on behalf of the Agency shall be guilty of an offence under this Act and on conviction shall be liable to imprisonment for a term not exceeding two years.

36. General penalties
Any person who contravenes any provisions of this Act or any regulation made thereunder commits an offence and shall on conviction, where no specific penalty is prescribed therefor, be liable to a fine not exceeding N20,000 or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

37. Companies and firms liable
Where any offence against this Act or any regulations made thereunder has been committed by a body corporate or by member of a partnership or other firm or business, every director or officer of that body corporate or any member of the partnership or other person concerned with the management of such firm or business shall, on conviction, be liable to a fine not exceeding N500,000 for such offence and in addition shall be directed to pay compensation for any damage resulting from such breach thereof or to repair and restore the polluted environmental area to an acceptable level as approved by the Agency [1992 No. 59]

38. Delegation of functions, etc. [1992 No. 59]
(1) The Council may delegate any of its function and duties under this Act to the Technical Committee or the Director-General, as the case may be.
(2) Nothing contained in subsection (1) of this section shall preclude the exercise by the Council of any of the functions or duties delegated by it to the Technical Committee or the Director-General.

39. Repeal, etc. [1992 No. 59]
(1). The National Resources Conservation Act is hereby repealed.
(2) The repeal of the enactment referred to in subsection (1) of this section shall not affect anything done or purported to have been done under the repealed enactment.

40. Power to make regulations
The Director-General may, with the approval of the Council, make regulations generally for the purposes of this Act and without prejudice to the generality of the foregoing, the Director-General may, in particular, prescribe standards for-
(a) water quality
(b) effluent limitations;
(c) air quality;
(d) atmospheric protection;
(e) ozone protection;
(f) noise control; and
(g) control of hazardous substances and removal methods.

41. Interpretation
In this Act, unless the context otherwise requires-
“appropriate agencies” means any government agencies which has jurisdiction over the land or water affected by the pollution or any government agencies which ordinarily has jurisdiction over the operation which led to the pollution;
“authorised officer” means any employee of the Agency, any police officer not below the rank of an Inspector of Police, or any customs officer;
“court” means the Federal High Court;
“Director” means the Director of the Federal Environmental Protection Agency;
“disposal” includes both land-based disposal and dumping in waters and airspace of Nigeria;
“effluent limitation” means any restriction established by the Agency of quantities, rates and concentration of chemical, physical, biological or other constituents which are discharged from point sources into the waters of Nigeria;
“environment” includes water, air, land and all plants and human beings or animals living therein and the
inter-relationships which exist among these or any of them;
“hazardous substance” includes any substance designated as such by the Minister by order published in the Federal Gazette;
“Minister” means the Minister charged with responsibility for the environment;
“new source” means any source, the construction of which is commenced after the publication of any regulations prescribing a standard of performance under this Act, which is applicable to such source;
“offshore facility” means any facility of any kind located over, in, on or under any of the waters of Nigeria;
“onshore facility” means any facility (including but not limited to motor vehicles and rolling stock) of any kind located over, in, or under any land within Nigeria other than submerged land;
“owner” or “operator” means-
(a) in the case of a vessel, any person owning, operating or chartering by demise such vessel;
(b) in the case of an onshore facility or an offshore facility, any person owning or operating such onshore facility or offshore facility; and
(c) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;
“point source” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft from which pollutants are or may be discharged;
“pollution” means man-made or man-aided alteration of chemical, physical or biological quality of the environment to the extent that is detrimental to that environment or beyond acceptable limits and “pollutant” shall be constructed accordingly;
“removal” means removal of hazardous substances from waters of Nigeria, including shorelines or the taking of such other action as may be necessary to minimise or mitigate damage to the public health or welfare, ecology and natural resource of Nigeria;
“waters of Nigeria” means all water resources in any form, including atmospheric, surface and sub-surface, and underground water resources where the water resources are inter-State, or in the Federal Capital Territory, territorial waters, Exclusive Economic Zone or in any other area under the jurisdiction of the Federal Government.

42. Short title
This Act may be cited as the Federal Environmental Protection Agency Act.
SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE AGENCY

Proceedings

Cap 192

1. Subject to this Act and section 27 of the Interpretation Act (which provides for decisions of a statutory body to be taken by a majority of its members and for the person presiding to have a second or casting vote), the Agency may make standing orders regulating the proceedings of the Agency or any committee thereof. [Cap 123]

2. Every meeting of the Agency shall be presided over by the Chairman or in his absence the members present at the meeting shall elect one of their number to preside at the meeting.

3. The quorum at a meeting of the Agency shall consist of the Chairman (or in an appropriate case the person presiding at the meeting pursuant to paragraph 2 of this Schedule) and six other members.

4. Where upon any special occasion the Agency desires to obtain the advice of any person on any particular matter, the Agency may co-opt that person to be a member for as many meetings as may be necessary; and that person while so co-opted shall have all the rights and privileges of a member except that he shall not be entitled to vote.

Committees

5. (1) Subject to its standing orders, the Agency may appoint such number of standing and ad hoc committees as it thinks fit to consider and report on any matter with which the Agency is concerned.

(2) Every committee appointed under the foregoing provisions of this paragraph shall be presided over by a member of the Agency and shall be made up of such number of other persons, not necessarily members of the Agency, as the Agency may determine in each case.

(3) The quorum of any committee set up by the Agency shall be as may be determined by the Agency.

6. Where standing orders made pursuant to paragraph 1 of this Schedule provide for a committee of the Agency to consist of co-opted person who are not members of the Agency, the committee may advise the Agency on any matter referred to it by the Agency and the members thereof may attend any meeting of the Agency for that purpose.

Miscellaneous

7. The fixing of the seal of the Agency shall be authenticated by the signature of the Chairman and of the Director of the Agency.

8. Any contract or instrument which, if made by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Agency by the Director or by any other person generally or specially authorised to act for that purpose by the Agency.

9. Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of the Agency shall be received on evidence and shall unless the contrary is proved, be presumed without further proof to have been so signed or sealed.

10. The validity of any proceedings of the Agency or of a committee thereof shall not be adversely affected—

(a) by any vacancy in the membership of the Agency or any committee thereof; or

(b) by any defect in the appointment of a member of the Agency or any committee thereof.

11. Any member of the Agency or a committee thereof who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Agency or committee thereof shall forthwith disclose his interest to the Agency or the committee and shall not vote on any question relating to the contract or arrangement.

12. No member of the Agency shall be personally liable for any act done or omission made in good faith while engaged on the business of the Agency.
HARMFUL WASTE (SPECIAL CRIMINAL PROVISIONS, ETC) ACT  
[1988 Act No. 42 Cap. H1] 

ARRANGEMENT OF SECTIONS  

Crimes in respect of harmful wastes

SECTION
1. Prohibition activities relating to harmful waste, etc.
2. Parties to the crime.
5. Accessories after the fact.
6. Penalties, etc.
7. Crime by Body Corporate.
8. Attempt.
11. Sealing of Dumping Site, etc.
12. Civil Liability.
14. Offences under more than One Law.
15. Interpretation.
16. Citation.

HARMFUL WASTE (SPECIAL CRIMINAL PROVISIONS, ETC) ACT  

Commencement   [25th November 1988]

An Act to prohibit the carrying, depositing and dumping of harmful waste on any land, territorial waters and matters relating thereto.

Crimes in respect of Harmful Wastes

1. Prohibition activities relating to harmful waste, etc. 1988 No. 1
(1) Notwithstanding the provisions of the Customs, Excise Tariff, Etc. (Consolidation) Act, or any other enactment, or law, all activities relating to the purchase, sale, importation, transit, transportation, deposit storage of harmful wastes are hereby prohibited and declared unlawful.

(2) As from the commencement of this Act, any person who, without lawful authority—
(a) carries, deposits, dumps or causes to be carried, deposited or dumped, or is in possession for the purpose of carrying, depositing or dumping, any harmful waste on any land or in any territorial waters or contiguous zone or Exclusive Economic Zone of Nigeria or its inland waterways; or
(b) transports or causes to be transported or is in possession for the purpose of transporting any harmful waste; or
(c) imports or causes to be imported or negotiates for the purpose of importing any harmful waste; or
(d) sells, offers for sale, buys or otherwise deals in any harmful waste, shall be guilty of a crime under this Act.

(3) A person shall be deemed to deposit or dump harmful waste under this Act if he deposits or dumps the harmful waste, whether solid, semi-solid or liquid, in such circumstances, or for such period that he may be deemed—
(a) to have abandoned it where it is deposited or dumped; or
(b) to have brought it to place where it is so deposited or dumped for the purpose of being disposed of or abandoned whether by him or any other person.

2. Parties to the crime
(1) A person shall be deemed to commit a crime under this Act if—
(a) he actually does the act or makes the omission which constitutes the crime; or
(b) he does or omits to do any act for the purpose of enabling or aiding another person to commit the crime; or
(c) he aids another person in committing the crime; or
(d) he counsels or procures any other person to commit the crime, in which case he may himself be charged, with committing the crime or with counseling or procuring the commission of the crime.

(2) Any person convicted of counseling or procuring the commission of a crime under this Act shall be
liable to the same punishment as is prescribed under this Act for the commission of the crime.

(3) Any person who procures another to do or omit to do any act of such a nature that, if he had himself done the act or made the omission, the act or omission would have constituted a crime on his part under this Act, shall be guilty of a crime of the same kind and liable to the same punishment as if he had himself done the act or made the omission, and he may be charged with committing the act or making the omission.

3. Crimes Committed in Prosecution of Common Purpose
When two or more persons form a common intention to prosecute an unlawful purpose in conjunction with one another, and in the prosecution of that purpose a crime under this Act is committed, each of those persons shall be deemed to have committed the crime.

4. Mode of Execution of Crime
(1) When a person counsels another to commit a crime under this Act, and a crime is actually committed after such counsel by the person to whom the counsel was given, it is immaterial that the crime—
   (a) actually committed is the same as the one counseled or a different one; or
   (b) is committed in the way counseled or in a different way:
      Provided that in either case, the facts constituting the crime actually committed are a probable consequence of carrying out the counsel.

(2) A person who gives any counsel as specified in subsection (1) of this section shall be deemed to have counseled the other person to commit the crime actually committed by him.

5. Accessories after the fact
Any person who assists another who has, to his knowledge, committed a crime under this Act, in order to enable him to escape punishment shall be deemed to be an accessory after the fact to the crime.

6. Penalties, etc
Any person found guilty of a crime under sections 1 to 5 of this Act shall on conviction be sentenced to imprisonment for life, and in addition—
   (a) any carrier, including aircraft, vehicle, container and any other thing whosoever used in the transportation or importation of the harmful waste; and
   (b) any land on which the harmful waste was deposited or dumped, shall be forfeited to and vest in the Federal Government without any further assurance other than this Act.

7. Crime by Body Corporate
Where a crime under this Act has been committed by a body corporate and it is proved that it was committed with the consent or connivance of or is attributable to any neglect on the part of—
   (a) a director, manager, secretary or other similar officer of the body corporate; or
   (b) any other person purporting to act in the capacity of a director, manager, secretary or other similar officer, he as well as the body corporate shall be guilty of the crime and shall be liable to be proceeded against and punished accordingly.

8. Attempt
(1) Any person who attempts to commit any of the crimes under this Act shall be guilty of a crime and shall on conviction be sentenced to imprisonment for life.

(2) Where a person is charged with a crime under this Act and the evidence establishes an attempt to commit the crime he may be convicted of having attempted to commit that crime, although the attempt is not separately charged and such person shall be punished as provided under subsection (1) of this section.

(3) When a person is charged with an attempt to commit a crime under this Act but the evidence establishes the commission of the full crime, the offender shall not be entitled to acquittal but shall be convicted of the crime and punished as provided under section 6 of this Act.

[Cap. D9]

Miscellaneous

9. Exclusion of Immunity
The immunity from prosecution conferred on certain persons by or under the Diplomatic Immunities and Privileges Act 1962 shall not extend to any crime committed under this Act by any of those persons.

10. Power to Search, Seize and Arrest
(1) For the purposes of this Act, any police officer may, without warrant—
   (a) enter and search any land, building or carrier, including aircraft, vehicle, container or any other thing whatsoever which he has reason to believe is related to the commission of a crime under this Act;
   (b) perform tests and take samples of any substances relating to the commission of the crime which
are found in the land, building or carrier, including aircraft, vehicle, container or any other thing whatsoever searched pursuant to paragraph (a) of this subsection;
(c) arrest any person who he has reason to believe has committed a crime under this Act;
(d) seize any item or substance which he has reason to believe has been used in the commission of a crime under this Act.

(2) A written receipt shall be given for any item, substance or thing seized under subsection (1) of this section.

11. Sealing of Dumping Site, etc
(1) Where the Minister charged with responsibility for environment has reasonable ground to believe that any area or site has been, is being or will or might be used directly or indirectly for the purpose of depositing or dumping any harmful waste, he may seal up the area or site in question.
(2) Where the Minister acts under subsection (1) of this section, any person aggrieved may appeal to the Minister within ten days and the Minister after considering the appeal may confirm or cancel any action taken pursuant to subsection (1) of this section.
(3) The sealing up of any area or site shall last for three months in the first instance and may be extended by the Minister for another period of three months at a time, so however that the total period of the sealing shall not exceed twelve months.
(4) Notwithstanding subsection (2) of this section, upon the receipt of any report in respect of any area or site sealed up, the Minister may direct that any substance found therein which in his opinion is of a harmful nature shall be destroyed or disposed of at such time and in such manner as the Minister thinks fit in the circumstances.
(5) The Minister may take other necessary measures to safeguard lives or property found or within the area or site sealed up pursuant to subsection (1) of this section.
(6) Any person who knowingly and without reasonable excuse breaks a seal affixed under subsection (1) of this section or obstructs or hinders any operation or measure being taken under subsection (5) of this section shall be guilty of a crime and on conviction shall be liable to a fine of not less than ₦50,000 or to imprisonment for not less than five years.

12. Civil Liability
(1) Where any damage has been caused by any harmful waste which has been deposited or dumped on any land or territorial waters or contiguous zone or Exclusive Economic Zone of Nigeria or its inland waterways, any person who deposited, dumped or imported the harmful waste or caused the harmful waste to be so deposited, dumped or imported shall be liable for the damage except where the damage—
(a) was due wholly to the fault of the person who suffered it; or
(b) was suffered by a person who voluntarily accepted the risk thereof
(2) In this section “damage” includes the death of, or injury to any person (including any diseases and impairment of physical or mental condition).

13. Jurisdiction
The Federal High Court shall have exclusive jurisdiction to try the crimes specified in this Act.

14. Offences under more than One Law
It is hereby declared for the avoidance of doubt that section 24 of the Interpretation Act 1964 shall not apply in respect of the crimes specified in this Act.

[Cap. I23]

15. Interpretation
In this Act, except the context otherwise requires—
“Exclusive Economic Zone” has the meaning assigned thereto in the Exclusive Economic Zone Act 1978;
[Cap. E17]
“Harmful waste” means any injurious, poisonous, toxic or noxious substance and, in particular, includes nuclear waste emitting any radioactive substance if the waste is in such quantity, whether with any other consignment of the same or of different substance, as to subject any person to the risk of death, fatal injury or incurable impairment of physical and mental health; and the fact that the harmful waste is placed in a container shall not be itself be taken to exclude any risk which might be expected to arise from the harmful waste;
“Minister” means the Minister charged with responsibility for works and housing;
“Territorial water” has the meaning assigned thereto by the Territorial Water Act 1967.
[Cap. T5]

16. Citation
This Act may be cited as the Harmful Waste (Special Criminal Provisions, Etc) Act 1988.
HYDROCARBON OIL REFINERIES ACT 1965

ARRANGEMENT OF SECTIONS

SECTION
1. Refiner's Licence.
3. Grant of Application.
4. Refusal to Grant Application.
5. Revocation of Licence.
7. Offences under Section 1 of this Act
9. New or Further Entries of Same Premises.
10. Proof as to Entries.
12. Power to Enter upon Premises for Inspection Purposes.
15. Power to Enter on Premises Etc, in Case of Unlawful Refining.
17. Forfeiture Condemnation of Refined Hydrocarbon Oil Seized.
18. Power to Levy Distress.
19. Excise Control Facilities.
20. Licensees To Keep Records.
21. Power To Require Information From Licence Holder.
22. Unlawful Assumption of Office.
23. Officers to have Powers of Police Officers.
27. Offences by Bodies Corporate.
28. Regulations.
29. Interpretation.
30. Short Title.

HYDROCARBON OIL REFINERIES ACT 1965

An Act to make provision for the licensing and control of the refining of hydrocarbon oils for purposes of excise and for matters connected therewith.

[1965 No. 17. ]

Commencement. [11th June, 1965]

[L.N. 71 of 1965.]

1. Refiner's Licence
   Subject to the provisions of this Act, no person shall refine any hydrocarbon oils save in a refinery and under a licence issued under this Act (hereunder referred to as "a refiner's licence").

2. Application for Refiner's Licence
   An application for a refiner's licence may be made by any person in the prescribed form and manner to the Nigerian Customs Service Board (in this Act referred to as "the Board") in respect of the premises mentioned in that behalf in the application.

3. Grant of Application
   If the Board, after due enquiry, is satisfied that the premises mentioned in an application and intended to be used by the applicant as a refinery are in such a state and contains such equipment as would enable proper control for excise purposes to be exercised over activities to be carried on therein, the Board shall, on payment of a fee of five hundred naira, issue to the applicant a refiner's licence in the prescribed form in respect of such premises.
4. **Refusal to Grant Application**
   (1) If the Board, after the enquiry, is not satisfied as required by section 3 of this Act in respect of the premises to which the application relates, the Board may refuse to grant the application and shall notify the applicant in writing of such refusal.
   (2) A notification by the Board under subsection (1) of this section of its refusal to grant an application shall contain particulars of what the Board considers necessary to be done in respect of the premises before the application can be granted.

5. **Revocation of Licence**
   (1) If at any time during the currency of a refiner's licence the Board is satisfied that—
      (a) proper control for excise purposes can no longer be exercised over the premises; or
      (b) that the person to whom the licence was granted has ceased to refine hydrocarbon oils on such premises, the Board may revoke the licence.
   (2) The Board shall notify a licence-holder in writing of the revocation of his licence under Subsection (1) of this section.

6. **Expiration and Renewal of Licence**
   (1) A refiner's licence issued under this Act shall, unless previously revoked, remain in force until 31st December next following the date of issue, and shall then expire.
   (2) An application for the renewal of a refiner's licence may be made to the Board in the prescribed form and manner by the person to whom the licence was issued and the provisions of sections 3 and 4 of this Act shall apply to such application as they apply to an application made under Section 2 of this Act.

7. **Offences under Section 1 of this Act**
   (1) Any person who refines hydrocarbon oils in contravention of the provisions of section 1 of this Act shall be guilty of an offence, and shall be liable—
      (a) on summary conviction, to a fine of not less than four hundred naira or more than two thousand naira or to imprisonment for a term of two years, or to both;
      (b) on conviction on indictment, to a fine of an unlimited amount or to imprisonment for a term not exceeding five years or to both.
   (2) Any hydrocarbon oils in respect of the refining of which a person is convicted of an offence under this section shall be liable to forfeiture.

8. **Making of Entries**
   (1) The holder of a refiner’s licence shall make entry of any premises or articles to which the licence relates as the excise laws may require, and such entry shall be made in the form and manner and contain the particulars prescribed by the Board and the premises and articles shall be, and be kept, marked in such manner as the Board may direct.
   (2) No such entry as aforesaid shall be valid unless the person by whom it was made—
      (a) had at the time of its making attained the age of twenty-one years; and
      (b) was at that time and is for the time being carrying on the business of refining hydrocarbon oils in the premises in respect of which the entry was made.
   (3) Where any person required to make entry is a body corporate—
      (a) the entry shall be signed by a director, general manager, secretary or other similar officer of the body and, except where authority for that person to sign has been given under the seal of the body, shall be made under that seal; and
      (b) both the body corporate and the person by whom the entry is signed shall be liable for all duties charged in respect of the trade to which the entry relates.
   (4) If any person making entry of any premises or article contravenes or fails to comply with any direction of the Board given under this section with respect thereto he shall be guilty of an offence punishable on conviction by a fine of four hundred naira.

9. **New or Further Entries of Same Premises**
   (1) The Board may at any time, by notice in writing to the person by whom any existing entry was signed addressed to him at any premises entered by him, require a new entry to be made of any premises or article to which the existing entry relates, and the existing entry shall without prejudice to any liability incurred become void at the expiration of fourteen days from the delivery of the notice.
   (2) Save as permitted by the Board and subject to such conditions as it may impose no premises or article
of which entry has been made by any person shall, while that entry remains in force be entered by any other person for any purpose of the excise laws, and any entry made in contravention of this subsection shall be void.

(3) Where the person by whom entry has been made of any premises absconds or quits possession of the premises and discontinues the trade in respect of which the entry was made, and the Board permits a further entry to be made of the premises by some other person, the former entry shall be deemed to have been withdrawn and shall be void.

10. Proof as to Entries
For the purpose of proceedings before any court, if any question arises to whether or not entry under the excise laws has been made by any person of any premises or article, or for any purpose, then—
(a) if a document purporting to be an original made by the person or of the premises or made by the person or of the premises or article, or for the purpose in question is produced to the court by an officer that document shall until the contrary is proved be sufficient evidence that the entry was so made and;
(b) if the officer in whose custody any such entry, if made, would be, gives evidence that the original entries produced by him to the court constitute all those in his custody and that no such entry as is in question is among them, it shall be deemed until the contrary is proved that no such entry has been made.

11. Offences in Connection With Entries
(1) If any person being the holder of refiner’s licence issued under this Act uses, for any purpose of his trade any premises or article required by this Act to be entered for that purpose without entry thereof having been duly made, he shall be guilty of an offence punishable on conviction by a fine of one thousand naira, and any goods found on such premises shall be liable to forfeiture.
(2) If any person who has made entry of any premises or article fraudulently uses those premises or that article for any purpose other than that for which entry thereof was made, he shall be guilty of an offence punishable on conviction by a fine of one thousand naira.

12. Power to Enter upon Premises for Inspection Purposes
(1) An officer may at any time enter upon any premises to which a refiner's licence relates for the purposes of inspecting the premises and examine and take account of any equipment, meters, vessels, utensils, goods or materials used for or in any way connected with the refining of hydrocarbon oils.
(2) Where an officer, after having demanded admission into any such premises as aforesaid and declared his name and business at the entrance thereto is not immediately admitted that officer and any person acting in his aid may break open any door or window of such premises or break through any wall thereof for the purpose of entering the premises.

13. Payment of Excise Duty
(1) Every holder of a refiner’s licence shall pay any duty of excise payable in respect of any hydrocarbon oils refined by him at or within such time, at such place and to such person as the Board may direct, whether or not the payment of that duty has been secured by bond or otherwise.
(2) If any excise duty payable is not paid as aforesaid, it shall be paid on demand made by the Board either to the holder of the refiner's licence personally or by delivering the demand in writing at his place of abode or the premises to which his licence relates, and, if it is not so paid on demand, the licence holder unless he can show that the demand was not so made or delivered shall, in addition to the amount of the excise duty, be liable to a penalty equal to twice the amount thereof or six hundred naira whichever is the greater.

14. Effect of Variation in Balances Struck or Excess Etc. In Stock of Materials
(1) If at any time when an account is taken by the proper officer and a balance is struck of the quantity of refined hydrocarbon oils in the possession of the holder of the refiner's licence that quantity differs from the quantity thereof which ought to be kept in his possession according to any account required by this Act to be kept, the following provisions shall apply—
(a) if the former quantity exceeds the latter, the excess shall be liable to forfeiture; and
(b) if the former quantity is less than the latter the holder of the refiner's licence shall be liable on summary conviction to a fine equal to twice the amount of the excise duty which would be payable on the quantity of refined hydrocarbon oils equal to that on the deficiency or six hundred naira, whichever is the greater.

(2) At any time when an account is taken by the proper officer and a balance is struck of the Stock of materials, the following provisions shall apply—
(a) if any excess is found or goods not authorised for use as materials are discovered in the stock such
excess or goods shall be liable to forfeiture; and

(b) if any deficiency is found which cannot be accounted for to the satisfaction of the Board the quantity or value of materials representing such deficiency shall be deemed to have been used in manufacture and in any particular case duty shall be charged on the quantity or value of excisable goods reckoned to have been purchased with such quantity or value of materials.

15. **Power to Enter on Premises Etc, in Case of Unlawful Refining**
If any officer has reasonable grounds to suspect that any refining of hydrocarbon oils contrary to the provisions of this Act is being carried out on any land or premises, he may enter thereon, if need be by force and dismantle or seize any apparatus and equipment used for or in connection with such unlawful refining.

16. **Power to Seize Goods in Particular Cases**
Where any refined hydrocarbon oils subject to excise duty become liable to forfeiture under this Act, but such products are not available in sufficient quantity for forfeiture, the Board may seize from the stock of the holder of the refiner's licence, any quantity of such product available or materials capable of conversion into such products of such quantity as would attract up to the same amount of duty as that on the refined hydrocarbon oils liable to forfeiture.

17. **Forfeiture Condemnation of Refined Hydrocarbon Oil Seized**
(1) Any officer, police officer, or person authorised in that behalf by the Board may at anytime seize or detain any refined hydrocarbon oils liable to forfeiture under this Act or which such officer, police officer or person so liable to forfeiture.

(2) Refined hydrocarbon oils so seized or detained shall forthwith be delivered to the Board and pending determination by the Board as to forfeiture or disposal, things delivered to the Board shall be dealt with as the Board may direct.

(3) In the application of this section the provisions of the First Schedule to this Act shall have effect for the purposes of forfeiture, and all proceedings for the condemnation of any thing as being forfeited under this Act.

18. **Power to Levy Distress**
(1) Where any excise duty on hydrocarbon oils refined under a refiner's licence remains unpaid after the time within which it is payable, the Board may authorise the levying of a distress-

(a) upon the goods, chattels and effects of the holder of the licence in respect of the unpaid duty; and

(b) upon all equipment plant, tools, ships, vehicles, animals, and other goods and effects whatsoever used in the refining, sale or distribution of refined hydrocarbon oils found in any premises or on any land in the use or possession of the holder of the licence or of any person on his behalf, or in trust for him.

(2) The authority to distrain under this section shall be in the form set out in the Second Schedule to this Act, and shall be a warrant and authority to levy by distress the amount of the unpaid duty.

(3) For the purpose of levying any distress under this section, any person authorised in writing by the Board may execute a warrant of distress and if necessary break open any building or place in the daytime for the purpose of levying such distress.

(4) A person so authorised under subsection (3) of this section to execute a warrant of distress may call to his assistance any police officer that shall when required and assist in the execution of the warrant of distress and in levying the distress.

(5) Where distraint is made on any goods or things under this section the burden of proof that they are not liable to seizure shall lie upon the person claiming that they are not so liable and any goods or things seized may at the cost of the owner thereof be kept for fourteen days; and if the amount due in respect of duty and the cost and charges of and incidental to the distress are not then paid the goods or things so seized may be sold.

(6) Out of the proceeds of the sale there shall be paid first the excise duty and thereafter the costs and charges of and incidental to the levying sale and keeping of the distress; and the residue, if any shall be paid to the owner of the goods or things distrained upon demand made by the owner within one year of the date of sale.

(7) In exercising the power of distress conferred by this section, the person to whom authority to levy distress is given may distraint upon all goods or things belonging to the licence-holder wherever such goods or things may be found.

19. **Excise Control Facilities**
(1) The holder of a refiner's licence shall provide and maintain at his own expense on the premises to which his licence relates—

(a) such office, lavatory and sanitary accommodation, with the requisite furniture lighting and
cleaning for the proper officer as the Board may direct;

(b) such appliances and facilities as may be required to enable the proper officer at any time to examine or search or to perform any other of his duties at such premises as the Board may direct, and if the holder of the licence fails to comply with any of the foregoing requirements of subsection, the Board may revoke or suspend his licence.

(2) The requirements which the Board is authorised to impose on the holder of a refiner's licence by subsection (1) of this section shall include the requirement to provide at his own expense and lease to the Board on such reasonable terms as the Board may determine living accommodation which the Board considers suitable for occupation by, and by the household of, any officer charged with duties which, in the opinion of the Board make it desirable that he should reside on or near the provisions of subsection (1) of this section for failure to comply with the requirements thereof shall have effect accordingly.

(3) The proper officer may affix a lock or seal to any fittings on the premises or on any apparatus or thing whatsoever therein and for that purpose he may require the holder of the refiner's licence to provide and maintain any such fittings at his own expense.

(4) If the holder of such licence fails to comply with the requirements of subsection (3) of this section the Board may provide and install the fitting and any expense incurred shall be paid to the Board on demand by the holder of the licence.

(5) The failure of the holder of the licence to pay any expenses incurred by the Board under subsection (4) of this section shall be an offence for which he shall in addition to the requirement of the payment of the expense be liable on summary conviction to a fine of four hundred naira.

(6) If the holder of a refiner's licence or any member of his family or any servant of the holder—

(a) wilfully destroys or damages a fittings or any lock key or seal intended for use therewith; or

(b) improperly obtains access to any place or article secured by any such lock or seal thereon; or

(c) has any fitting on premises or on any apparatus or thing whatsoever fastened or attached in such fashion that adequate supervision and control by an officer for the purposes of this Act is not practicable, the holder of the licence, or member of his family, or the servant as the case may be, shall be guilty of an offence and shall on conviction be liable to a fine of two thousand naira or to a term of imprisonment of two years.

20. Licensees To Keep Records

(1) Every holder of a refiner's licence shall keep on the premises to which the licence relates such records and make all entries therein relating to the refining of hydrocarbon oils and the storage and delivery of hydrocarbon oils and such other materials as the Board may require.

(2) All entries in the records so kept shall be made legibly in ink and no cancellation or amendment shall be made save in such manner as the Board may from time to time, direct.

(3) The proper officer may at any time inspect records kept under this section and take copies of any entry.

(4) Failure by the holder of a refiner's licence to comply with the provisions of this section shall be an offence for which the offender shall be liable on summary conviction to a fine of one thousand naira.

21. Power To Require Information From Licence Holder

(1) The holder of a refiner's licence shall—

(a) produce to the Board for inspection as and when required invoices and other books or documents in his possession relating to hydrocarbon oils refined by him during the preceding period of twelve months or any part thereof.

(b) supply answers to questions relating to the refining of hydrocarbon oils and related matters as the Board may reasonably require to implement the provisions of this Act;

(c) produce to the Board such evidence as it may reasonably require in support of any answer so supplied; and

(d) make returns in such form and at such intervals as the Board may require.

(2) If the holder of a refiner's licence fails without lawful excuse to comply with any of the requirements imposed by the Board under subsection (1) of this section he shall be guilty of an offence and shall be liable on summary conviction to a fine two hundred naira.

(3) The powers conferred on the Board by subsection (1) of this section in so far as they relate to the questions regarding the cost of production and the refiner's profits in respect of any hydrocarbon oils refined by him shall be exercisable only by the Board itself.

(4) The Board may require the holder of a refiner's licence to supply to it in every year and at such other times as it may direct a certificate of audit by an accountant approved by the Board as to—

(a) the correctness of all the books and records required by or under this Act to be kept by the licence-holder; and
(b) any matter necessary to implement any of the provisions of this Act.

(5) The holder of a refiner’s licence who without reasonable excuse fails to supply a certificate of audit when required under subsection (4) of this section shall be guilty of an offence and shall be liable on summary conviction to a fine of one thousand naira.

(6) In this section “accountant approved by the Board” means an accountant who is a member of one of the professional bodies for the time being declared by the Board by notice in the Federal Gazette to be approved for such purposes, but does not include any such member if he is the holder of a refiner’s licence or is employed by any such holder.

22. Unlawful Assumption of Office
If for any of the purposes incidental to the control of the refining of hydrocarbon oils under this Act any person, without lawful authority assumes the name, designation or character of an officer he shall in addition to any other punishment be liable on conviction to a fine of not less than four hundred naira or more than one thousand naira, or to imprisonment for a term of two years, or to both.

23. Officers to have Powers of Police Officers
For the avoidance of doubt, officers acting under this Act shall have the same powers, authorities and privileges as are given by law to police officers.

24. Offence of Concealing, Etc Refined Hydrocarbon Oils On Licensed Premises
(1) If any person —
   (a) conceals any refined hydrocarbon oils on premises on which they were refined in pursuance of a refiner’s licence; or
   (b) without the consent of the proper officer, removes any refined hydrocarbon oils from such premises; or
   (c) knowingly possesses, buys or receives any such hydrocarbon oils removed from such premises before duty (if any) thereon has been charged and, as the case may be, paid or secured, such person shall be guilty of an offence and shall on conviction be liable to a fine of six times the value of the goods or one thousand naira whichever is the greater amount or to imprisonment for two years or to both.

(2) Refined hydrocarbon oils in respect of which an offence has been committed under subsection (1) of this section shall be liable to forfeiture.

25. Condemnation Proceedings
(1) Where, in any proceedings for the condemnation of any things seized as liable to forfeiture under this Act judgment is given for the claimant, the court before which the case is heard may, if it sees fit, certify that there were reasonable grounds for the seizure.

(2) Where any proceedings, whether civil or criminal, are brought against the Board or any person authorised by or under this Act to seize or detain anything liable to forfeiture on account of the seizure or detention of anything, and judgment is given for the plaintiff or prosecutor, then if—
   (a) a certificate relative to the seizure has been granted under subsection (1) of this section; or
   (b) the court is satisfied that there were reasonable grounds for seizure or detaining that thing under this Act, the plaintiff or prosecutor shall not be entitled to recover any damages or costs and the defendant shall not be liable to any punishment provided that nothing in this subsection or in section 26 of this Act shall affect the right of any person to the return of the thing seized or detained or to compensation in respect of any damage to the thing or in respect of the destruction thereof.

(3) Any certificate under subsection (1) of this section may be proved by the production of either the original certificate or a certified copy thereof purporting to be signed by an officer of the court by which it was granted.

26. Compensation Special Case
(1) Where any refined hydrocarbon oils on the premises of the holder of a refiner’s licence are destroyed, stolen or unlawfully removed by or with the assistance or connivance of an officer of Customs and Excise and that officer is convicted of the offence the Board shall, if the holder of the refiner’s licence was not a party to the offence pay compensation for any loss caused by any such destruction, theft or removal; and it is hereby declared that in any such case no duty shall be payable on any such refined hydrocarbon oils by the licence-holder and duty (if any) paid thereon by the licence-holder shall be refunded.
(2) Subject to the provisions of subsection (1) of this section, compensation shall not be paid by the Board and no action shall lie against the Board or any officer for any loss or damage caused to any goods by any officer acting in the execution of his duty except where the loss or damage occurs as the direct result of the unlawful act or negligence of such officer.

27. Offences by Bodies Corporate
Where an offence under this section which has been committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or any person purporting to act in any such capacity, he as well as the body corporate shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

28. Regulations
(1) The Minister may make such regulations with regard to the conduct of refineries as appear to the Minister to be appropriate for the purpose of ensuring the payment of excise duty on the hydrocarbon oils refined on the premises; and, without prejudice to the generality of the foregoing, such regulations may in particulars provide for—
(a) the inspection by officers of the premises and all activities carried on the premises and the inspection of the meters and other equivalent installations used for the measurement of the quantities of refined hydrocarbon oils produced thereon;
(b) the notice to be given of any change which it is proposed to make in the premises or the use thereof;
(c) the regulation of —
   (i) the production, storage and warehousing of hydrocarbon oils,
   (ii) the removal of hydrocarbon oils to or from the premises used for the production,
   (iii) the use and storage of hydrocarbon oils in the premises;
(d) the calculation, securing and collection of the excise duty on hydrocarbon oils;
(e) the exportation, loading as stores, removal to bonded warehouse, deliveries to approved users in Nigeria without payment of the excise duty; and
(f) the form and manner of an application for the grant or renewal of refiner’s licence and the form of such licence.
(2) Every person who acts in contravention of any of the regulations made under this section shall be guilty of an offence.
(3) Every person who is guilty of an offence under this section shall be liable on conviction to a fine of not less than one thousand naira in respect of any particular offence, or to imprisonment for a term of two years, or both such fine and such imprisonment, and for the forfeiture or disposal of anything in respect of which the offence is committed.

29. Interpretation
In this Act unless the context otherwise requires—
“excise laws” means the Customs and Excise Management Act and any other Act relating to the control of excisable goods;
[Cap. C45]
“hydrocarbon oils” means petroleum oils produced from coal, shale, peat or any other bituminous substance, and all liquid hydrocarbons excluding such hydrocarbons which are solid or semi-solid at a temperature of 60°F or which are gaseous at a temperature of 60°F at atmospheric pressure;
“Minister” means the Minister responsible for finance;
“Officer” means any person employed in the Department of Customs and Excise or for the time being performing customs and excise duties;
“Proper officer” means any officer whose right or duty it is to require the performance of or perform the act referred to;
“Refinery” means any bonded premises approved by the Board for the treatment of hydrocarbon oils.

30. Short Title
This Act may be cited as the Hydrocarbon Oil Refineries Act.
FIRST SCHEDULE
Section 17(3)
Provisions Relating to Forfeiture

Notice of Seizure

1. (1) Save where seizure was made in the presence of —
   (a) the person whose offence or suspected offence occasioned the seizure; or
   (b) the owner or any of the owners of the thing sized or any servant or agent of his, the Board shall give
   notice of the seizure of any thing as liable to forfeiture and of the grounds thereof to any person who
   to its knowledge was at the time of the seizure the owner or one of the owners thereof.

   (2) Notice under paragraph 1 shall be given in writing and shall be deemed to have been duly served on the
   person concerned —
   (a) if delivered to him personally;
   (b) if addressed to him and left or forwarded by post to him at his usual or last known place of abode
   or business or, in the case of a body corporate at their registered or principal office;
   (c) where he has no address in Nigeria, or his address is unknown by publication of notice of seizure
   in the Federal Gazette.

Notice of Claim

2. (1) Any person claiming that any thing seized as liable to forfeiture is not so liable shall within one month
   of the date of the notice of seizure or if no such notice has been served on him within one month of the date
   of the seizure give notice of his claim in writing to the Board;
   Provided that the Board may at its discretion extend the period in which notice of a claim may be given.

   (2) The notice shall specify the name and address of the claimant. If a claimant is outside Nigeria the notice
   shall specify the name and address of a legal practitioner in Nigeria authorised to accept the service of
   process and to act on behalf of the claimant and where service is affected on such legal practitioner it
   shall be deemed to be proper service on the claimant.

Condemnation

3. If on the expiration of the relevant period aforesaid for the giving of notice of claim no such notice has been
   given to the Board or if in the case of any such notice given any requirement of paragraph 2 of this Schedule
   is not complied with the thing in question shall be deemed to have been duly condemned as forfeiture.

4. Where notice of claim is duly given in accordance with the foregoing provisions of this Schedule, the Board
   shall take proceedings for the condemnation of that thing by the court and if the court finds that the thing
   was at the time of seizure liable to forfeiture the court shall condemn it as forfeiture.

5. Where any thing is in accordance with either of the two last foregoing paragraphs condemned or deemed to have
   been condemned as forfeited then without prejudice to any delivery by or sale of the thing by the Board under
   paragraph 12 of this Schedule the forfeiture shall have effect as from the date when the liability to forfeiture arose.

Proceedings for Condemnation by Court

6. (1) Proceedings for condemnation shall be civil proceedings and may be instituted in a court of summary
   jurisdiction.

   (2) Proceedings for the condemnation of any thing instituted in a court of summary jurisdiction may be so
   instituted in any such court having jurisdiction in the place where —
   (a) any offence in connection with that thing was committed or any proceedings for such an instituted;
   (b) the claimant resides, or if the claimant has specified a legal practitioner under paragraph (2) of this
   Schedule, in the place where the legal practitioner has office;
   (c) the thing was found, detained or seized or to which it is first brought after having been found
   detained or seized.

7. (1) In any proceedings for condemnation the claimant or his legal practitioner shall make oath that the thing
   seized was, or was to the best of his knowledge or belief, the property of the claimant at the time of the seizure.
   (2) If the requirement of subparagraph (1) of this paragraph is not complied with the court shall give
   judgment for the Board.

8. Where an appeal has been made against he decision of the court in any proceedings for the condemnation of
   any thing, that thing shall, pending the final determination of the matter be left with the Board.

Provisions as to Proof

9. In any proceedings arising out of the seizure of any thing, the effect, form and manner of the seizure shall be taken
to have been as set forth in the process without any further evidence thereof, unless the contrary is proved.

10. In any proceedings, the condemnation by a court of any thing as forfeited may be proved by the production either of the order or certificate of condemnation or a certified copy thereof purporting to be signed by an officer of the court by which the order or certificate was made or granted.

Special Provisions as to certain Claimants

11. For the purposes of a claim to or proceedings for the condemnation of, any thing, where that thing is at the time of the seizure the property of a body corporate, of two or more partners or of any number of persons exceeding five, the oath required by this Schedule to be taken and anything required by this Schedule or by the rules of the court to be done by or by any other person authorised by the claimant or owner may be taken or done by any other person authorised by the following persons respectively that is to say—
(a) where the owner is a body corporate the secretary or some duly authorised officer of that body;
(b) where the owners are in partnership any one of those owners;
(c) where the owners are any number of persons exceeding five not being in partnership any two of those persons on behalf of themselves and their co-owners.

12. Where any thing has been seized as liable to forfeiture the Board may at any time at its discretion and notwithstanding that the thing has not yet been condemned or is not yet deemed to have been condemned as forfeited —
(a) deliver it up to any claimant upon his paying to the Board such sum as the Board thinks proper being a sum not exceeding that which in its opinion represents the value of the thing, including any duty chargeable thereon which has not been paid; or
(b) if the thing seized is in the opinion of the Board of a perishable nature sell or destroy it.

13. (1) Subject to the provisions of this paragraph if in the case of any thing delivered up sold or destroyed as aforesaid, it is held in proceedings taken under this Schedule that the thing was not liable to forfeiture at the time of its seizure, the Board shall on demand by the claimant—
(a) an amount equal to any sum paid by him under sub-paragraph (a) of paragraph 12 of this Schedule; or
(b) where the Board has sold the thing an amount equal to the proceeds of sale; or
(c) where it has destroyed the thing an amount equal to the market value of the thing at the time of its seizure.

(2) If any such amount includes any sum on account of duty chargeable on the thing which had not been paid before its seizure the Board may deduct so much of that amount as represents that duty.

(3) If the claimant accepts any amount tendered to him under this paragraph, he shall not be entitled to maintain any action on account of the seizure detention sale or destruction of the thing.

SECOND SCHEDULE
Section 18(2)

Form of Warrant of Distress

To..................................................................

The Nigerian Customs Service Board, by virtue of the powers conferred on it by section 18 of the Hydrocarbon Oil Refineries Act (Cap. H5) hereby authorises you to collect and recover the sum of ........................................ due for excise duty from hydrocarbon oil refinery, having his premises at .........................................................

And for the purpose of levying such assistance as aforesaid to break open any building or place in the daytime.

Signed for and on behalf of the Nigerian Customs Service Board at ............................................................... this ........................................................... day of ........................................................ 20............................................

Collector (or as the case may be)
NIGERIAN NATIONAL PETROLEUM CORPORATION (NNPC) ACT 1977

ARRANGEMENT OF SECTIONS

PART I

Establishment of the Corporation

SECTION
1. Establishment of the Nigerian National Petroleum Corporation
2. Alternate Chairman.
3. Managing Director and Secretary.
4. Staff Generally.
5. General Duties of the Corporation.
9. Disposal of Surplus Funds.

PART II

Petroleum Inspectorate

11. Head of Inspectorate to be appointed by the Minister etc.

PART III

Legal Proceedings

12. Limitation of Suits against the Corporation, etc.
14. Restriction on Execution against the Property of the Corporation.
15. Indemnity of Members of the Board and Employees of the Corporation.

Part IV

Miscellaneous and Supplementary

16. Certain Exemptions from Rates etc.
17. Regulation of Public Access to Corporation’s Premises.
19. Annual Reports.
22. Interpretation.
23. Short Title and Repeal.

SCHEDULE

FIRST SCHEDULE

Supplementary Provision Relating to Tenure of Office Etc of Members of the Board

SECOND SCHEDULE

Transitional Provisions Relating to the Employees, Asset and Liabilities of the Dissolved Corporation

NIGERIAN NATIONAL PETROLEUM CORPORATION (NNPC) ACT

1977 No 33  CAP N123

An Act to dissolve the Nigerian National Oil Corporation and to establish the Nigerian National Petroleum Corporation empowered to engage in all commercial activities relating to the Petroleum industry and to enforce all regulatory measures relating to the general control of the Petroleum sector through its Petroleum Inspectorate department.

Commencement  [1st April, 1977]
PART I

Establishment of the Corporation

1. Establishment of the Nigerian National Petroleum Corporation
   (1) There shall be established a corporation by the name of the Nigerian National Petroleum Corporation (hereinafter referred to as “the Corporation”) which shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name.
   (2) The affairs of the corporation shall, subject to Part II of this Act, be conducted by a Board of Directors of the Corporation which shall consist of a Chairman and the following other members, that is —
      (a) the Director-General, Federal Ministry of Finance and Economic Development;
      (b) the Managing Director of the Corporation; and
      (c) three persons to be appointed by the National Council of Ministers, being persons who by reason of their ability, experience or specialised knowledge of the industry of business or professional attainments are capable of making useful contributions to the work of the Corporation.
   (3) The Chairman shall be Minister in the Government of the Federation to be known as the Minister of Petroleum Resources.
   (4) The supplementary provisions set out in the First schedule to this Act shall have effect with respect of the tenure of office of members of the Board (other than the Chairman), proceedings of the Board, certain duties of the members thereof and the matters mentioned therein.

2. Alternate Chairman
   (1) There may be appointed by the President an Alternate Chairman who may, pursuant to any general or special delegation given in that behalf by the Minister exercise the powers conferred upon the Minister or Chairman under this Act:
      Provided that nothing in the foregoing shall be construed as preventing the exercise by the Minister himself of any power so delegated.
   (2) The provisions of the Ministers’ Statutory Powers and Duties (Miscellaneous Provisions) Act shall not apply to any delegation made under this section and the question whether any delegation has been made hereunder shall not be inquired into except at the instance of the Minister.

3. Managing Director and Secretary
   (1) There shall be appointed by the National Council of Ministers, a Managing Director of the Corporation who shall be the chief executive officer of the Corporation and shall, subject to Part II of this Act, be responsible for the execution of the policy of the corporation and the day to day running of the corporation’s activities and its associated services.
   (2) There shall be appointed by the Corporation a Secretary to the Corporation who shall not be a member of the Board and who shall keep the records and conduct the correspondence of the Board and perform such other duties as the Chairman or Managing Director may from time to time direct.

4. Staff Generally
   (1) Subject to this Act, the Corporation may appoint such persons as members of staff of the corporation as it considers necessary and may approve conditions of service, including provision for the payment of pensions.
   (2) If the Corporation thinks it expedient that any vacancy in the staff of the Corporation should be filled by a person holding office in any of the public services in the Federation, it shall inform the appropriate Civil Service commission to that effect and thereafter the Corporation may cause such vacancy to be filled by way of secondment or transfer.
   (3) Where a member of any of the civil services in the Federal is seconded under subsection (2) of this section, he shall be notified of the terms and conditions of the secondment; and the secondment shall be without prejudice to any pension rights which, but for the secondment, would still accrue to him.
   (4) A person seconded under subsection (2) of this section may elect to be transferred to the staff of the Corporation, in which case any previous service in the public service concerned shall count as service for the purposes of pensions subsequently payable by the Corporation.

5. General Duties of the Corporation
   (1) Subject to the provisions of this Act, the Corporation shall be charged with the duty of —
      (a) Exploring and prospecting for, working, winning or otherwise acquiring, possessing and disposing of petroleum;
      (b) Refining, treating, processing and generally engaging in the handling of petroleum for the manufacture and production of petroleum products and its derivatives;
(c) Purchasing and marketing petroleum, its products and by-products;
(d) Providing and operating pipelines, tanker-ships or other facilities for the carriage or conveyance of crude oil, natural gas and their products and derivatives, water and any other liquids or other commodities related to the Corporation's operations;
(e) Constructing equipping and maintaining tank farms and other facilities for the handling and treatment of petroleum and its product and derivatives;
(f) Carrying out research in connection with petroleum or anything derived from it and promoting activities for the purpose of turning to account the result of such research;
(g) Doing anything required for the purpose of giving effect to agreements entered into by the Federal Government with a view to securing participation by the Government or the Corporation in activities connected with petroleum;
(h) Generally engaging in activities that would enhance the petroleum industry in the overall interest of Nigeria; and
(i) Undertaking such other activities as are necessary or expedient for giving full effect to the provisions of this Act.

(2) It shall be the duty of the Corporation, from time to time, when the National Council of Ministers so requires or the Corporation considers it appropriate to undertake a general review of the affairs of the Corporation and of any subsidiaries thereof for the purpose of determining how the management of the activities of the Corporation or any subsidiary thereof can most efficiently be organised and, where appropriate, to make a report to the National Council of Minister upon the Corporation's conclusions arising from the review.

6. Powers of the Corporation

(1) The corporation shall have powers to do anything which in its opinion is calculated to facilitate the carrying out of its duties under this Act including, without limiting the generality of the following, the power —
(a) To hold, manage and alienate movable and immovable property;
(b) To purchase or otherwise acquire or take over all or any of the assets, businesses, properties, privileges, contracts, rights, obligations and liabilities of any other company, firm or person in furtherance of any business engaged in by the Corporation;
(c) To enter into contracts or partnerships with any company, firm or person which in the opinion of the Corporation will facilitate the discharge of the said duties under this Act;
(d) To establish and maintain subsidiaries for the discharge of such functions as the Corporation may determine; and
(e) To train managerial, technical and such other staff for the purpose of the running of its operations and for the petroleum industry in general.

(2) Notwithstanding subsection (1) of this section, any contract relating to any project of a value of more than N5,000,000 (or such higher limit as may be directed from time to time by the National Council of Minster) shall be referred by the corporation to the National Council of Ministers for approval before the award of any such contract is made by the Corporation.


(1) The Corporation shall keep proper accounts and proper records in relation thereto in a form which shall conform with the best commercial standards.

(2) The Corporation shall as soon as may be after the end of the financial year to which the accounts relate cause its accounts to be audited by auditors appointed by the Corporation, with the approval of the National Council of Ministers, from the list of auditors and in accordance with the guidelines laid down by the Auditor-General of the Federation.

(3) The auditors shall, on the completion of the audit of the accounts of the Corporation for each financial year, prepare and submit to the Corporation reports setting out —
(a) general observations and recommendations of the auditors on the financial affairs of the Corporation for the year and on any important matters which the auditors desire to bring to the notice of the Corporation; and
(b) detailed observations and recommendations of the auditors on all aspects of the operations of the Corporation for that year.

(4) The Corporation shall maintain a fund which shall consist of —
(a) such moneys as may from time to time be provided by the Federal Government for the purposes of this Act by way of grants or loans or otherwise howsoever; and
(b) such moneys as may be received by the Corporation in the course of its operations or in relation to the exercise by the Corporation of any of its functions under this Act, and from such fund there shall be defrayed all expenses incurred by the Corporation.
(5) The Corporation shall submit to the National Council of Ministers not later than three months before the end of each financial year estimates of its expenditure and income relating to the next following financial year.

8. **Borrowing Powers**

(1) Subject to the other provisions of this section, the Corporation may from time to time borrow by overdraft or otherwise howsoever such sums as it may require in the exercise of its functions under this Act.

(2) The Corporation shall not, without the approval of the National Council of Ministers, borrow any sum of money whereby the amount in aggregate outstanding on any loan or loans at any time exceeds such amount as is for the time being specified by the National Council of Ministers.

(3) Notwithstanding subsection (2) of this section, a person lending to the corporation shall not be bound to enquire whether the borrowing is within the power of the Corporation or not.

(4) Where any sum required aforesaid —
   a) is to be currency other than naira; and
   b) is to be borrowed by the Corporation otherwise than temporarily, the corporation shall not borrow the sum without the prior approval of the National Council of Ministers.

(5) For the purposes of this section, any money borrowed by the Corporation from a subsidiary thereof or by any such subsidiary from the Corporation or any other subsidiary thereof shall be disregarded.

9. **Disposal of Surplus Funds**

The National Council of Ministers may issue to the Corporation such directions as it may think necessary as to the disposal of any surplus funds of the Corporation, and subject to any such directions, the Corporation may invest its funds and maintain a general reserve.

**PART II**

**Petroleum Inspectorate**

10. **Petroleum Inspectorate**

(1) There shall be established a department to be known as the Petroleum Inspectorate which shall, subject to the other provisions of this Part, be an integral part of the Corporation.

(2) The Minister may delegate to the Alternate Chairman (where one is appointed) or the chief executive of the Inspectorate such of the powers conferred upon him under the Oil Pipelines Act, the Petroleum Act or any other enactment as he may deem necessary and in particular, but without prejudice to the generality of the foregoing, responsibility for the following matters, that is —
   a) Issuing permits and licenses for all activities connected with petroleum exploration and exploitation and the refining, storage, marketing, transportation and distribution thereof; and
   b) Acting as the agency for the enforcement of the provisions of the said Acts and any relevant regulations made thereunder by the Minister;
   c) Carrying out such other functions as the Minister may direct from time to time and notwithstanding the foregoing, and regulatory function conferred on the Minister pursuant to the said Acts or any other enactment shall, as from the appointed day, be deemed to have been conferred upon and may be discharged by the Chief executive of the Inspectorate.

(3) In the exercise of the powers conferred upon the chief executive of the Inspectorate under this Act, he shall not be subject to the direction or control of any other person or authority in the Corporation except the Minister.

(4) For the avoidance of doubt, the Inspectorate shall not exercise any commercial functions in respect of any activities of the Government of the Federation relating to the petroleum industry.

11. **Head of Inspectorate to be appointed by the Minister etc.**

(1) There shall be by the Minister, with the approval of the National Council of Ministers, a person to be the Chief executive of the Inspectorate to be known by such designation as the Minister may determine.

(2) There shall be appointed by the Corporation such other employees as may be necessary to assist the chief executive officer in the efficient discharge of the functions conferred on him under or pursuant to this Act.

**PART III**

**Legal Proceedings**

12. **Limitation of Suits against the Corporation, etc.**

(1) Notwithstanding anything in any other enactment, no suit against the Corporation for any act done in pursuance or execution of any enactment or law, or of any public duties or authority, or in respect of any alleged
neglect or default in the execution of such enactment or law, duties or authority, shall lie or be instituted in any court unless it is commenced within twelve months next after the act, neglect or default complained of or, in the case of a continuance of damage or injury, within twelve months next after the ceasing thereof.

(2) No suit shall be commenced against the Corporation before the expiration of a period of one month after written notice of intention to commence the suit shall have been served upon the Corporation by the intending plaintiff or his agent; and the notice shall clearly and explicitly state the cause of action, the particulars of the claim, the name and place of abode of the intending plaintiff and the relief which he claims.

13. Service of Documents
The notice referred to in section 12 (2) of this Act and any summons, notice or other document required or authorised to be served upon the Corporation under the provisions of this Act or any other enactment or law may be served by delivering the same to the Chairman or the Managing Director of the Corporation, or by sending it by registered post addressed to the Managing Director at the principal office of the Corporation.

14. Restriction on Execution against the Property of the Corporation
In any action or suit against the Corporation no execution or attachment or process in the nature thereof shall be issued against the Corporation but any sums of money which may, by the judgment of the court, be awarded against the Corporation shall, subject to any directions given by the court where notice of appeal has been given by the Corporation, be paid from the general reserve fund of the Corporation.

15. Indemnity of Members of the Board and Employees of the Corporation
Every member of the Board, agent and or employee for the time being of the Corporation shall be indemnified out of the assets of the Corporation against any liability incurred by him in defending any proceeding whether civil or criminal, if any such proceeding is brought against him in his capacity as such member, agent, auditor or employee as aforesaid.

PART IV
Miscellaneous and Supplementary

16. Certain Exemptions from Rates etc.
(1) Oil pipelines and other installations belonging to the Corporation shall not be regarded as hereditaments or tenements to be valued for rating purposes; and for the purpose of this subsection, the expression oil rigs, refineries, power generating plants, pumping stations, tank farms and similar installation but does not include office or residential buildings.

(2) Except as provided in subsection (1) of this section, nothing in this Act shall be deemed to exempt the Corporation from liability for any tax, duty, rate, levy or other charges whatsoever, whether general or local:

Provided that the Corporation shall not be liable to pay any such tax, duty, rate levy or charge unless every company liable to tax under the Petroleum Profits Tax Act is also liable for such payment. Cap. 354 [Cap C39]

17. Regulation of Public Access to Corporation's Premises. Cap. 78
(1) Subject to the provisions of this Act, the Criminal Justice (Miscellaneous Provisions) Act or any other enactment, the Corporation may make bye-laws —

(a) prohibiting or restricting the access of members of the public or of any class of members of the public to any premises vested in, occupied by or under the control of the Corporation;

(b) regulating the hours during which the means whereby, the purpose for which and the conditions subject to which members of the public or any class of members of the public may have access to or egress from any such premises or portion thereof;

(c) for ensuring the maintenance of good order and discipline amongst members of the public at any time when upon any such premises;

(d) prohibiting or restricting the use of land over, underneath or near which the Corporation has any installation and for preventing the unauthorised or improper use of or wilful or negligent acts occasioning injury to any property owned, vested in, occupied by or under the control of the Corporation.

(2) Bye-laws made under the provisions of this section shall not come into force until they have been approved by the Minister and published in such manner as he shall direct or until such later date as may be specified in the bye-laws.

(3) Bye-laws made under this section may provide that for the contravention of such bye-laws there may be imposed on the conviction of any person for any such contravention a fine not exceeding ₦500 (five hundred naira) or, in default of payment thereof, imprisonment for a term not exceeding twelve months.

(4) For the purposes of this section, members and employees of the Corporation shall not be deemed to be
members of the public.

(5) In this section, “premises” includes lands, plants and ancillary works.

18. Protection of Certain Rights
Where in the exercise of any function under this Act certain rights are affected, the provisions of this Act shall not be construed so as to exclude —

a) the payment of compensations in respect of any loss or damage that may have been suffered in consequence of the operation of the provisions of this Act; and

b) the determination of any right or interest in any property acquired or possessed by the Corporation, and the amount of compensation payable as prescribed under the Land Use Act [Cap L5]

19. Annual Reports
The corporation shall prepare and submit to the National Council of Ministers, through the Minister not later than 30th June in each financial year, a report on the activities of the Corporation during the immediately preceding financial years, and shall include in such report a copy of the audited accounts of the Corporation for that year and the auditors report thereon.

For the purposes of this Act, the Corporation shall be subject to all rights, powers, obligations, and duties to which a license or lessee by virtue of the Petroleum Act and a licensee and the holder of a permit by virtue of the Oil Pipelines Act are subject, so however that in the application thereof —

(a) Paragraph 12 of the First Schedule to the Petroleum Act (which provides for the relinquishment of one-half of the leased area after ten years of an oil mining lease); and

(b) Paragraphs 3 and 6 of the said schedule (which relate to the duration of an oil exploration license and oil prospecting license, exploration license and oil prospecting license, respectively

(c) Such other provisions of those enactments as the Ministers may from time to time specify by public notice, shall be exclude.

21. Protection of Corporation's Land
(1) Land vested in the Corporation shall not be liable to be acquired compulsorily under any enactment or law; and notwithstanding anything in any other enactment or law, no mining operations shall be carried on, or under any land vested in the Corporation or any land over which the Corporation is entitled to rights of supports for the benefit of lands so vested except with the prior consent in writing of the Minister.

(2) For the purpose of this section, “land” includes any land under water beyond the territorial waters of Nigeria to which Nigeria is for the time being entitled to any exclusive rights.

22. Interpretation
(1) In this Act, unless the context otherwise requires —

“BOARD” means the Board of Directors of the Corporation;

“CHAIRMAN” means the Chairman of the Corporation;

“CORPORATION” means the Nigerian National Petroleum Corporation established pursuant to section 1 of this Act and includes any wholly owned subsidiary thereof and, subject to the provisions of the Act the Inspectorate;

“CRUDE OIL ” has the meaning assigned thereto by section 15 (1) of the Petroleum Act; Cap 350 [Cap P10]

“FINANCIAL YEAR” means the period of twelve months beginning on 1st January and ending on 31st December;

“INSPECTORATE” means the Petroleum Inspectorate established puissant to Part II of this Act;

“MEMBER” means a member of the Board and includes the Chairman;

“MINISTER” means the Minister of Petroleum Resources;

“MINING OPERATIONS” includes prospecting for and getting of minerals or petroleum and any activities preparatory or incidental thereto;

“PETROLEUM” has the meaning assigned thereto by section 15 (1) of the Petroleum Act;

“PLANT” includes machinery, structures, installations, fixtures and other equipment and building or other structures housing any of the foregoing.

(2) For the avoidance of doubt, it is hereby declared that service in the Corporation shall, for the purpose of the Trade Disputes (Essential Services) Act, be deemed to be essential services Cap 433. [Cap T9]

23. Short Title and Repeal 1971 No 18
(1) This Act may be cited as the Nigerian National Petroleum Corporation Act.

(2) As from the date of commencement of this Act, the Nigerian National Oil Corporation Act 1971 shall stand repealed and, accordingly, the Nigerian National Oil Corporation established under that Act shall be dissolved and the transitional and saving provisions of Part B of the Second Schedule to this
Act shall have effect notwithstanding anything contained herein or in any other provision of this Act.

FIRST SCHEDULE

[Section 1 (4)]

PART A

Supplementary Provision Relating to Tenure of Office Etc of Members of the Board

Tenure of Office

1. (1) Subject to paragraph 3 of this Schedule and the other provisions of this Act, a member of the Board who is not an ex-officio member shall, unless he previously relinquishes his membership on the Board —
   (a) hold office for three years on such terms as may be specified in his letter of appointment; and
   (b) be eligible for re-appointment for a further term of three years, but shall vacate his office at the expiration of a period of six years.

   (2) No member of the Board shall be entitled to appoint an alternate or deputy to represent him at a meeting.

   (2) Subject to paragraph 3 of this Schedule, members of the Board, other than ex-officio members, shall be paid out of money at the disposal of the Board such remuneration and allowances as the Minister may, with the approval of the National Council of State, determine.

(3) The provisions of paragraph 1 and 2 of this Schedule shall not apply to the Chairman.

Proceedings

4 Subject to this Act and sections 27 of the Interpretation Act (which provides for decisions of a statutory body to be taken by a majority of its members and for the Chairman to have a second or casting vote), the Board may make standing orders regulating the proceedings of the Board or any committee thereof. Cap. 19 [Cap I23]

5. The board shall meet not less than four times in each year and on such other occasions as the Board may consider necessary.

6. Every meeting of the Board shall be presided over by the Chairman and if the Chairman is unable to attend any particular meeting, a member may be appointed by the member present to act as Chairman for that particular meeting.

7. A quorum at a meeting of the Board shall consist of four members of whom at least one shall be a member appointed under paragraph (d) of section 1 (2) of this Act.

8. Where standing orders made under paragraph 4 of this Schedule provide for the Board to co-opt persons who are not members of the Board, such persons may advise the Board on any matter referred to them by the Board, but shall not be entitled to vote at a meeting of the Board.

Salaries, etc.

9 (1) The salaries of the Managing Director of the Corporation and of his immediate subordinates shall be such as may determined from time to time by the National council of Ministers.

   (2) The salaries of the other employees of the Corporation shall be determined by the Corporation.

   (3) subject to any regulations made under paragraph 10 of his Schedule, the corporation shall pay to any of its employees such pensions and gratuities as it may determine.

10 The Board may make regulations providing for—
   (a) the conditions of service of its employees;
   (b) the grant of pensions, gratuities and other retiring benefits to its employees and their dependents, and the grant of gratuities to the estates or dependents of its deceased employees; and
   (c) the establishment and maintenance of medical benefit funds, superannuation funds and provident fund and the contributions (if any) payable thereto and the benefits receivable therefrom.

Miscellaneous

11. The fixing of the seal of the corporation shall be authenticated by the signature of the Chairman and any other person authorised in that behalf by the Board.

12. Any contract or instrument, which if made or executed by any person not being a body corporate would not be required to be under seal, may be made or executed on behalf of the Corporation by any person generally or specially authorised to act for that purpose by the Board.

13. Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of the Corporation shall be received in evidence and, unless the contrary is proved, be presumed without further proof to have been so signed and sealed.
14. The validity of any proceeding of the Board shall not be affected —
   (a) by any vacancy in the membership of the Board; or
   (b) by any defect in the appointment of a member of the board; or
   (c) by reason that a person not entitled to do so took part in the proceedings.

Duty of Members — Disclosure of Interest
15. A member of the Board who has any interest in any company or other concern with which the corporation
proposes to make any contract or arrangement or any interest in such contract or arrangement shall
disclose to the Board the fact of such interest and the nature thereof, and such disclosure shall be
recorded in the minutes of the Board, and such member shall take no part in any deliberation or decision
of the relating to such contract or arrangement.

SECOND SCHEDULE
[Section 23 (2)]

PART B

Transitional Provisions Relating to the Employees, Asset and Liabilities of the Dissolved Corporation
1. By virtue of this Act, there shall be vested in the Corporation (referred to in this Part of this Schedule as “the
new Corporation”) on the appointed day without any further assurance all assets, funds, resources and other
movable or immovable property which immediately before the appointed day were vested Corporation
dissolved by this Act (referred to in this part of this Schedule as “the oil corporation”).
2. As from the appointed day —
   (a) the rights, interests, obligations and liabilities of the old corporation existing immediately before the
appointed day under any contract or instrument, or at law or in equity apart from any contract or
instrument, shall by virtue of this Act be assigned to and vested in the New Corporation;
   (b) any such contract or instrument as is mentioned in paragraph (a) of this Schedule shall be of the same force
and effect against or in favour of the new Corporation and shall be enforcement as fully and effectively as if
instead of the old corporation, the new corporation had been named therein or had been a party thereto; and
   (c) the new Corporation shall be subject to all the obligations and liabilities to which the old Corporation
was subject immediately before the appointed day, and all other persons shall as from the appointed
day have the same rights, powers and remedies against the new Corporation as they had against old
Corporation immediately before the appointed day.
3. Any proceeding or cause of action pending or existing immediately before the appointed day by or against
the old Corporation in respect of any right, interest, obligation or liability of the old corporation may be
commenced, continued or enforced by or against the new corporation as if this Act had not been made.
4. Notwithstanding the dissolution of the old Corporation by section 23 of this Act but subject to such directions
as may be issued by the Board, any person who immediately before the appointed day held office under the old
Corporation shall, on the appointed day, be deemed to have been transferred to the new corporation on terms
and conditions not less favourable than those obtaining immediately before the appointed day; and service
under the old Corporation shall be deemed to be service under the new Corporation for pensions purpose.
5. Within the twelve months next after the making of this Act the Minister, if he thinks fit, may by order
in the Federal Gazette make additional transitional or saving provisions for the better carrying out of
the objectives of this Schedule.
6. In this Schedule, the “appointed day” means the day of coming into operation of this Act.

NIGERIAN NATIONAL PETROLEUM CORPORATION ACT
SUBSIDIARY LEGISLATION

No Subsidiary Legislation
1. **Power of Corporation to borrow in any currency, etc.**
   (1) Notwithstanding anything to the contrary contained in any law or enactment, the Nigerian National Petroleum Corporation (in this Act referred to as "the Corporation") shall be empowered, subject to the provisions of this Act, to borrow money in any currency and on such terms and conditions as the Board of the Corporation may deem necessary to carry out an approved project (in this Act referred to as "a project").
   (2) In the exercise of the powers conferred on the Corporation by subsection (1) of this section, the Corporation may borrow any amount of money whatsoever.
   (3) For the purposes of giving effect to the provisions of this Act, the Corporation may sue and be sued in its corporate name.

2. **Power to give security, etc.**
   (1) The Corporation may, for the purposes of receiving any loan for carrying out the purposes of a project, pledge any of the money, revenue, assets of the Corporation and may create escrow accounts outside Nigeria from which shall be repaid any capital and interest on any amount of money received by the Corporation for the purposes of giving effect to the project.
   (2) Notwithstanding anything to the contrary contained in any other law or enactment, any obligation imposed on the Corporation, or on the receipt of any money for a project or in the exercise of the powers conferred on it by this Act shall be enforceable by ordinary legal process, execution, attachment or any other process in the nature of an attachment.
   (3) The provision of subsection (1) of this section shall only apply to accounts and assets set aside by the Corporation for a project and shall not apply to any other account or asset of the Corporation.

3. **Power to enter into agreement**
   (1) The Corporation may enter into any agreement or arrangement with any person or take any other action as it may deem necessary and appropriate for the purposes of a project or giving effect to the provisions of this Act.
   (2) In this section, "person" means any body corporate or unincorporate.

4. **Interpretation**
   In this Act, unless the context otherwise requires-
   "Corporation" means the Nigerian National Petroleum Corporation established by the Nigerian National Petroleum Corporation Act; [Cap. N123]
   "project" means an approved project embarked upon by the Corporation.

5. **Short title**
   This Act may be cited as the Nigerian National Petroleum Corporation (Projects) Act.
NIGERIAN NATIONAL PETROLEUM CORPORATION (ADDITION) ACT 2007


Commencement [20th Day of July, 2007]

Enacted by the National Assembly of the Federal Republic of Nigeria.

1. Nigerian National Petroleum Corporation Act (in this Act referred to as “the principal Act”) is amended as set out in this Act.

2. In section 1 (2) (c), line 1, substitute for the word “three” the word “six”.

3. This Act may be cited as the Nigerian National Petroleum Corporation Act, 2007.

I certify, in accordance with Section 2 (1) of the Acts Authentication Act, Cap. A2, Laws of the Federation of Nigeria 2004, that this is a true copy of the Bill passed by both Houses of the National Assembly.

NASIRU IBRAHIM ARAB,
Clerk to the National Assembly
19th Day of July, 2007

EXPLANATORY MEMORANDUM
This Act amends the Nigerian National Petroleum Corporation Act Cap. N123 LFN, 2004 by increasing the Membership of the Board from three persons to six persons.
The Nigerian National Petroleum Corporation (Amendment) Bill, 2007

<table>
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<tr>
<th>(1) Short title of the Bill</th>
<th>(2) Long title of the Bill</th>
<th>(3) Summary of the contents of the Bill</th>
<th>(4) Date passed by the Senate</th>
<th>(5) Date passed by the House of Representatives</th>
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I certify that this Bill has been carefully compared by me with the decision reached by the National assembly and found by me to be true and correct decision of the House and is in accordance with the provisions of the Acts Authentication Act Cap. A2, the Laws of the Federation of Nigeria, 2004.

NASIRU IBRAHIM ARAB,  
Clerk to the National Assembly  
19th Day of July, 2007

ALHAJI UMARU MUSA YAR'ADUA, GCFR  
President of the Federal Republic of Nigeria  
OFF-SHORE OIL REVENUE (REGISTRATION OF GRANTS) ACT 1971

An Act to make provisions for all instruments relating to any lease, licence, permit or right issued or granted to any person in connection with the petroleum industry in Nigeria to continue to be registrable in the States which are contiguous to the territorial waters and the continental shelf of Nigeria, notwithstanding anything to the contrary in any other enactment.

1972 No. 23

Commencement    [1st April, 1971]

1.  Registration of grants in States
   (1) All registrable instruments relating to any lease, licence, permit or right issued or granted to any person in respect of the territorial waters and the continental shelf of Nigeria shall, notwithstanding anything to the contrary in any enactment, continue to be registrable in the States of the Federation, respectively, which are contiguous to the said territorial waters and the continental shelf.

   (2) Where there appears any dispute as to whether or not any instrument as aforesaid is registrable in any State, the question shall be determined by the Head of the Federal Government whose decision on such matter shall be final and binding.

   (3) The references in this Act to the “territorial waters” and the “continental Shelf” are references to those expressions as defined in the Territorial Waters Act Cap. 428 [Cap T5] and the Petroleum Act Cap. 350 [Cap P10], respectively.

2.  Short title
   The Act may be cited as the Off-Shore Oil Revenues (Registration of Grants) Act.
OIL IN NAVIGABLE WATERS ACT
[1968 No. 34]

ARRANGEMENT OF SECTIONS

SECTION
1. Discharge of certain oils into prohibited sea areas.
2. Designation of prohibited sea areas.
3. Discharge of oil into the waters of Nigeria.
4. Special defences under sections 1 and 3.
5. Equipment in ships to prevent oil pollution.
6. Penalties for offences under sections 1, 3 and 5.
7. Keeping record of matters relating to oil.
8. Facilities in harbours for disposal of oil residues.
9. Restriction on transfer of oil at night.
10. Duty to report discharges of oil into waters of harbours.
12. Prosecutions.
13. Enforcement and application of fines.
15. Power to Grant Exemptions.
17. Enforcement of Convention relating to oil pollution.
20. Interpretation.
21. Short Title.

SCHEDULE
Prohibited Sea Areas

[NOTE: The measurements used in this Act are English measurements; and they are to be converted into the metric measurements as and when required.]

OIL IN NAVIGABLE WATERS ACT

An Act to implement the terms of the International Convention for the prevention of pollution of the Sea by Oil 1954 to 1962 and to make provisions for such prevention in the navigable waters of Nigeria.

Commencement [22nd April, 1968]

1. Discharge of certain oils into prohibited sea areas
   (1) If any oil to which this section applies is discharged from a Nigerian ship into a part of the sea which, in relation to that ship, is a prohibited sea area, or if any mixture containing not less than 100 parts of oil to which this section applies is discharged from such a ship into such a part of the sea, the owner or master of the ship shall, subject to the provisions of this Act, be guilty of an offence under this section.
   (2) This section applies -
      (a) to crude oil, fuel oil and lubricating oil; and
      (b) to heavy diesel oil, and shall also apply to any other description of oil which may be prescribed under this subsection by order made by the Minister, having regard to the provisions of any subsequent Convention in so far as it relates to the prevention of pollution of the sea by oil, or having regard to the persistent character of oil of that description and the likelihood that it would cause pollution if discharged from a ship into a prohibited sea area.
(3) The Minister may, by regulations made under this subsection, make exceptions from the operation of subsection (1) of this section, either absolutely or subject to any prescribed conditions, and either generally or as respects particular classes of ships, or in relation to particular descriptions of oil or mixture in prescribed circumstances, or in relation to particular areas of the sea.

(4) In this Act, "subsequent Convention" means any Convention subsequent to the Convention of 1954 to 1962 being a Convention relating to the aforesaid Convention, and accepted by the Federal Government of Nigeria.

2. Designation of prohibited sea areas
(1) For the purposes of this Act the areas of the sea designated by or in accordance with this section shall be prohibited sea areas.

(2) Subject to the following provisions of this section, the areas specified in the Schedule to this Act shall be prohibited sea areas. [Schedule]

(3) The Minister, if he considers it necessary to do so for the purpose of protecting the coast and territorial waters of Nigeria from pollution by oil, may by order designate any area of the sea, outside the territorial waters of Nigeria and outside the areas specified in the Schedule of this Act as a prohibited sea area.

(4) For the purpose of giving effect to any variation of the prohibited zones referred to in the Convention of 1954 to 1962, in accordance with the provisions of that Convention or of any subsequent Convention, the Minister may by order vary any of the areas specified in the Schedule of this Act or declare that any area specified in that Schedule shall cease to be included therein. [Schedule]

(5) For the purpose of giving effect to any subsequent Convention, the Minister may by order designate as a prohibited sea area, any area of the sea, outside the territorial waters of Nigeria, which apart from the order is not a prohibited sea area.

(6) The power of the Minister under subsections (4) or (5) of this section shall be exercisable either generally or in relation to different classes of vessels or different circumstances or both.

3. Discharge of oil into the waters of Nigeria
(1) If any oil or mixture containing oil is discharged into waters to which this section applies from any vessel, or from any place on land, or from any apparatus used for transferring oil from or to any vessel (whether to or from a place on land or to or from another vessel), then subject to the provisions of this Act-

(a) if the discharge is from a vessel, the owner or master of the vessel; or

(b) if the discharge is from a place on land, the occupier of that place; or

(c) if the discharge is from apparatus used for transferring oil from or to a vessel, the person in charge of the apparatus, shall be guilty of offence under this section.

(2) This section applies to the following waters, that is to say -

(a) the whole of the sea within the seaward limits of the territorial waters of Nigeria, and

(b) all other waters (including inland waters) which are within those limits and are navigable by sea-going ships.

(3) The harbour authority may appoint a place within its jurisdiction where the ballast water of vessels in which a cargo of dangerous petroleum has been carried may be discharged into the waters of the harbour, at such times, and subject to such conditions, as the authority may determine; and, where a place is so appointed, the discharge of ballast water from such a vessel shall not constitute an offence under this section, if the ballast water is discharged at that place, and at a time and in accordance with the conditions so determined and the ballast water contains no oil other than dangerous petroleum.

(4) In subsection (3) of this section, “dangerous petroleum” has the same meaning as in the Petroleum Act. Cap. 350. [Cap P10]

4. Special defences under sections 1 and 3
(1) Where a person is charged with an offence under section 1 of this Act, or is charged with an offence under section 3 of this Act as the owner or master of a vessel, it shall be a defence to prove that the oil or mixture in question was discharged for the purpose of securing the safety of any vessel, or of preventing damage to any vessel or cargo or of saving life:

Provided that a defence under this subsection shall not have effect if the court is satisfied that the discharge of the oil or mixture was not necessary for the purpose alleged in the defence or was not a reasonable step to take in the circumstances.

(2) Where a person is charged as mentioned in subsection (1) of this section, it shall also be a defence to prove -

(a) that the oil or mixture escaped in consequence of damage to the vessel, and that as soon as practicable after the damage occurred all reasonable steps were taken for preventing, or (if it could not be prevented) for stopping or reducing, the escaped of oil or mixture, or

(b) that the oil or mixture escaped by reason of leakage, that the leakage was not due to any want of
reasonable care, and that as soon as practicable after the escape was discovered all reasonable steps were taken for stopping or reducing it.

(3) Where a person is charged with an offence under section 3 of this Act as the occupier of a place on land, or as the person in charge of any apparatus, from which oil or a mixture containing oil is alleged to have escaped, it shall be a defence to prove that the escaped of the oil or mixture was not due to any want of reasonable care, and that as soon as practicable after the escape was discovered all reasonable steps were taken for stopping or reducing it.

(4) Without prejudice to subsection (3) or this section, it shall be a defence for the occupier of a place on land, who is charged with an offence under the last preceding section, to prove that the discharge was caused by the act of a person who was in that place without the permission (express or implied) of the occupier.

(5) Where a person is charged with an offence under section 3 of this Act in respect of the discharge of a mixture containing oil from a place on land, it shall (without prejudice to any other defence under this section) be a defence to prove—
   (a) that the oil was contained in an effluent produced by operations for the refining of oil;
   (b) that it was not reasonably practicable to dispose of the effluent otherwise than by discharging it into waters to which the last preceding section applies; and
   (c) that all reasonably practicable steps had taken for eliminating oil from the effluent:

   Provided that a defence under this subsection shall not have effect if it is proved that, at a time to which the charge relates, the surface of the waters into which the mixture was discharged from the place in question, or land adjacent to those waters, was fouled by oil unless the court is satisfied that the fouling was not caused, or contributed to, by oil containing in any effluent discharged at or before that time from that place.

(6) Where any oil, or mixture containing oil, is discharged in consequence of—
   (a) the exercise of any power conferred by sections 273 and 275 of the Merchant Shipping Act (which relate to the removal of wrecks by the Receiver of Wreck); Cap. 224 [Cap M11]
   (b) the exercise, for the purpose of preventing an obstruction or danger to navigation, of any power to dispose of sunk, stranded or abandoned vessels which is exercisable by the harbour authority, and apart from this subsection the person exercising the power under the said sections 273 and 275 or, as the case may be, the harbour authority exercising the power, (or a person employed by or acting on behalf of that person on authority) would be guilty of an offence under section 1 of this Act, or under the last preceding section, in respect of that discharge, the authority or person shall not be convicted of that offence unless it is shown that it or he failed to take such steps (if any) as were reasonable in the circumstances for preventing, stopping or reducing the discharge.

5. Equipment in ships to prevent oil pollution

(1) For the purpose of preventing or reducing discharges of oil and mixtures containing oil into the sea, the Minister may make regulations requiring Nigerian ships to be fitted with such equipment, and to comply with such other requirements, as may be prescribed.

(2) Without prejudice to the generality of subsection (1) of this section, where any regulations made thereunder require ships to be fitted with equipment of a prescribed description, the regulations may provide that equipment of that description—
   (a) shall not be installed in a ship to which the regulations apply unless it is of a type tested and approved by a person appointed by the Minister;
   (b) which installed in such ship, shall not be treated as satisfying the requirements of the regulations unless, as such times as may be specified in the regulations, it is submitted for testing and approval by a person so appointed.

(3) The Minister may appoint persons to carry out tests for the purposes of any regulations made under this section, and, in respect of the carrying out of such tests, may charge such fees as may be prescribed by the regulations.

(4) Every Surveyor of ships shall be taken to be a person appointed by the Minister to carry out tests for the purposes of any regulations made under this section, in so far as they relate to tests required in accordance with paragraph (b) of subsection (2) of this section.

(5) If, in the case of any ship, the provisions of any regulations under this section which apply to that ship are contravened, the owner or master of that ship shall be guilty of an offence under this section.

6. Penalties for offences under sections 1, 3 and 5

A person guilty of an offence under section 1, 3 or 5 of this Act shall, on conviction by a High Court or a superior court or on summary conviction by any court of inferior jurisdiction be, liable to a fine:
Provided that an offence shall not by virtue of this section be punishable on summary conviction by a court having jurisdiction inferior to that of a High Court by a fine exceeding ₦2000 (two thousand naira).

7. Keeping record of matters relating to oil

(1) The Minister may make regulations requiring masters of Nigerian ships (other than tankers) being ships of 80 tons gross tonnage or more which uses fuel oil to keep record.

(a) of any occasion on which oil or a mixture containing oil is discharged from any ship for the purpose of securing the safety of any vessel, or of preventing damage to any vessel or cargo, or of saving life;
(b) of any occasion on which oil or a mixture containing oil is found to be escaping, or to have escaped, from any such ship in consequence of damage to the ship or by reason of leaking;
(c) of the carrying out, on board or in connection with any such ship, of such operations as may be prescribed, being operations relating to—
(i) the ballasting of oil tanks (whether cargo or bunker fuel tanks) and the discharge of ballast from, and cleaning of, such tanks, or
(ii) the separation of oil from water, or from other substances, in any mixer containing oil, or
(iii) the disposal of any or water, or any other substance arising from operations relating to any of the matters specified in the preceding sub-paragraphs, or
(iv) the disposal of any other oil residues.

(2) The Minister may make regulations requiring the keeping of records relating to the transfer of oil to and from vessels while they are within the seaward limits of the territorial waters of Nigeria and any requirements imposed by virtue of regulations under this section, shall in the case of vessels subject to the requirements made under subsection (1) of this section, be additional thereto.

(3) Any records required by virtue of regulations made under subsection (2) of this section in the case of any vessel shall be kept by the master of the vessel:

Provided that in that in case of a barge the records, in so far as they relate to the transfer of oil to the barge, shall be kept by the person supplying the oil, and, in so far as they relate to the transfer of oil from the barge, shall be kept by the person to whom the oil is delivered.

(4) Where by any regulations made under this section any records are required to be kept, the regulations may—
(a) prescribe the form in which the records are to be kept, and the nature of the entries to be made in them;
(b) require the person keeping the records to retain them for a prescribed period;
(c) require that person, at the end of the prescribed period, to transmit the records to a place or person determined by or under the regulations;
(d) provide for the custody or disposal of the records after their transmission to such a place or person, and any regulations made under subsection (2) of this section may provide for any of the matters specified in paragraphs (b) to (d) of this subsection in relation to be kept.

(5) If any person—
(a) fails to comply with any requirement imposed by or under this section, he shall be liable on summary conviction to a fine not exceeding one thousand naira.
(b) makes an entry in any records kept under this section which is to his knowledge false or misleading in any material particular; he shall be liable on summary conviction to a fine not exceeding one thousand naira or imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(6) In any proceedings under this Act—
(a) any records kept in pursuance of regulations made under this section shall be admissible as evidence of the facts stated in those records;
(b) any copy of an entry in such records, which is certified by the person by whom the records are required to be kept a true copy of the entry, shall be admissible as evidence of the facts stated in the entry;
(c) any documents purporting to be records kept in pursuance of regulations made under this section, or purporting to be such a certified copy as is mentioned in the last preceding paragraph, shall, unless the contrary is proved, be presumed to be such records or such a certified copy, as the case may be.

8. Facilities in harbours for disposal of oil residues

(1) In respect of every harbour in Nigeria, the powers of the harbour authority shall include power to provide facilities for enabling vessels using the harbour to discharge or deposit oil residues (in this Act referred to as "oil reception facilities").

(2) Any power of the harbour authority to provide oil reception facilities shall include power to join with any other person in providing them, and references in this section to the provision of oil reception facilities
by the harbour authority shall be constructed accordingly; and any such power shall also include power
to arrange for the provision of such facilities by any other person.

(3) The harbour authority providing oil reception facilities, or a person providing such facilities by
arrangement with the harbour authority, may make reasonable charges for the use of the facilities, and
may impose reasonable conditions in respect of the use thereof.

(4) Subject to the following provisions of this section, any oil reception facilities provided by, or by arrangement
with, the harbour authority shall be open to all vessels using the harbour on payment of any charges, and
subject to compliance with any conditions, imposed in accordance with the last preceding subsection.

(5) Where in the case of any harbour in Nigeria it appears to the Minister after consultation with the harbour
authority and with any organisation appearing to him to be representative of owners of Nigerian ships
registered in Nigeria—
(a) if the harbour has oil reception facilities that those facilities are inadequate; or
(b) if the harbour has no such facilities, that the harbour has need of such facilities, the Minister may
direct the harbour authority to provide, or arrange for the provision of, such oil reception facilities
as may be specified in the directions.

(6) Notwithstanding the provisions of subsection (4) of this section, the harbour authority providing oil
reception facilities, or a person providing such facilities by arrangement with the harbour authority, shall
not be obliged to make those facilities available for use by tankers, or for the reception of oil residues
discharged for the purpose of enabling a vessel to undergo repairs; and the requirements of tankers, and
the reception of oil residues discharged for the said purpose, shall be disregarded by the Minister in
exercising his powers under subsection (5) of this section.

(7) Nothing in this section shall be construed as requiring the harbour authority to allow untreated ballast water
(that is to say, ballast water which contains oil and has not been subjected to an effective process for separating
the oil from the water) to be discharged into any oil reception facilities provided by, or by arrangement with,
the authority; and the Minister shall exercise his powers under subsection (5) of this section accordingly.

(8) If the harbour authority fails to comply with any directions given under subsection (5) of this section within
the period specified in the directions, or within any extended period allowed by the Minister (whether before
or after the end of the period so specified), it shall be guilty of an offence, and liable on summary conviction to
a fine not exceeding twenty naira for each day during which the default continues, from the day after the end
of the period specified in the directions, or any extended period allowed by the Minister, as the case may be,
until the last day before that on which the facilities are provided in accordance with the directions.

(9) As respects any harbour in Nigeria, subsections (1), (2), (5) and (8) of this section shall have effect
in relation to arrangements for disposing of oil residues discharged or deposited by vessels using the
harbour’s oil reception facilities, and to the making of such arrangements, as those subsections have
effect in relation to oil reception facilities and the provision of such facilities.

9. **Restriction on transfer of oil at night**

(1) No oil shall be transferred between sunset and sunrise to or from a vessel in any harbour in Nigeria
unless the requisite notice has been given in accordance with this section:
Provided that this subsection shall not apply to the transfer of oil for the purpose of a fire brigade.

(2) For the purposes of this section a general notice may be given to the harbour master of a harbour that
transfers of oil between sunset and sunrise will be frequently carried out at a place in the harbour within
a period specified in the notice; and if such a notice is given it shall be the requisite notice for the
purposes of this section as regards transfer of oil at that place within the period specified in the notice:
Provided that the period specified in such a notice shall not extend beyond the end of the period of
twelve months beginning with the date on which the notice is given.

(3) Subject to subsection (2) of this section, the requisite notice for the purposes of this section shall be
a notice given to the harbour master not less than three hours more than ninety-six hours before the
transfer of oil begins.

(4) In the case of a harbour which has no harbour master, references in the two last preceding subsections
to the harbour master shall be construed as references to the harbour authority.

(5) If any oil is transferred to or from a vessel in contravention of this section the master of the vessel, and,
if the oil is transferred from or to a place on land, the occupier of that place, shall be liable on summary
conviction to a fine of not exceeding two hundred naira.

10. **Duty to report discharges of oil into waters of harbours**

(1) If any oil or mixture containing oil —
(a) is discharged from a vessel into the waters of a harbour in Nigeria for the purposes of securing the safety of the vessel, or of preventing damage to the vessel or her cargo or of saving life; or
(b) is found to be escaping, or to have escaped, into any such waters from a vessel in consequence of damage to the vessel, or by reason of leakage; or
(c) is found to be escaping or have escaped into any such waters from a place on land, the owner or master of the vessel or the occupier of the place on land, as the case may be, shall forthwith report the occurrence to the harbour master, stating, in the case of a report by the owner or master of a vessel, whether it falls within paragraph (a) or paragraph (b) of this subsection, and, if he fails to do so, shall be guilty of an offence under this section:

Provided that if the harbour has no harbour master the report shall be made to the harbour authority.

(2) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding N400 (four hundred naira).

11. Powers of inspection

(1) The Minister may appoint any person as an inspector to report to him—

(a) whether the prohibitions, restrictions and obligations imposed by virtue of this Act (including prohibitions so imposed by the creation of offences under this Act) have been complied with;
(b) what measures (other than measures made obligatory by regulation under section 5 of this Act) have been taken to prevent the escaped of oil and mixtures containing oil;
(c) whether the oil reception facilities provided in harbours are adequate; and any such inspector may be so appointed to report either in a particular case or in a class of cases specified in his appointment.

(2) Every surveyor of ships shall be taken to be a person appointed generally under subsection (1) of this section to report to the Minister in every kind of case falling within that subsection. Cap. 224 [Cap M11]

(3) Section 400 of the Merchant Shipping Act (which relates to the powers of inspectors) shall apply to persons appointed under subsection (1) of this section (including surveyors of ships in their capacity as such persons) as it applies to the inspectors referred to in that section as if —

(a) in paragraph (a) of subsection (1) of that section, the reference to a ship were a reference to a vessel, and the reference to that Act were a reference to this Act and included a reference to any regulations made under this Act; and
(b) any power under that section to inspect premises included power to inspect any apparatus used for transferring oil.

(4) Any power of an inspector, under the said section 400 as applied by subsection (3) of this section to inspect a vessel shall include power to test any equipment with which the vessel is required to be fitted in pursuance of regulation under section 2 of this Act.

(5) Any power of an inspector, under the said section 400 as so applied, to require the production of any records required to be kept in accordance with regulations under section 7 of this Act, shall include power to copy any entry in those records and require the person by whom the records are to be kept to certify the copy as a true copy of the entry; and in subsection (3) of the said section 400, as so applied, the reference to making a declaration shall be construed as a reference to the certification of such a copy.

(6) Without prejudice to any power exercisable by virtue of the preceding provisions of this section, in the case of a vessel which is for the time being in a harbour in Nigeria the harbour master, and any other person appointed by the Minister under this subsection (either generally or in relation to a particular vessel), shall have power—

(a) to go on board and inspect the vessel or any of the machinery, boats, equipment or articles on board the vessel, for the purpose of ascertaining the circumstances relating to an alleged discharge of oil or a mixture containing oil from the vessel into the waters of the harbour;
(b) to require the production of any records which by virtue of any regulations made under this Act are required to be kept in respect of the vessel;
(c) to copy any entry in any such records, and require the person by whom the records are to be kept to certify the copy as a true copy of the entry:

Provided that a person exercising any powers conferred by this subsection shall not unnecessarily detain or delay the vessel from proceeding on any voyage.

(7) If any person fails to comply with any requirement duly made in pursuance of paragraph (b) or (c) of subsection (6) above, he shall be liable on summary conviction to a fine not exceeding twenty naira; and if any person wilfully obstructs a person acting in the exercise of any power conferred by virtue of this section he shall be liable on summary conviction to a fine not exceeding N200.
12. Prosecutions
(1) Subject to subsection (2) of this section, no proceedings shall be brought in Nigeria in respect of any offence under this Act except by or with the consent of the Attorney-General of the Federation.

(2) In respect of any offence under section 9 or 10 of this Act, no proceedings shall be brought in Nigeria except by the harbour authority.

(3) Where immediately before the date which (apart from this subsection) would be the date of expiry of the time for bringing proceedings in a court of summary jurisdiction in respect of an offence alleged to have been committed under this Act, the person to be charged is outside Nigeria, the time for bringing the proceedings shall be extended until the end of the two months beginning with the date on which he next enters Nigeria.

(4) Proceedings for any offence under this Act may (without prejudice to any jurisdiction exercisable apart from this sub-section) be taken against a person at any place at which he is for the time being.

(5) The chief magistrate shall have and may exercise jurisdiction for the trial of any offence in respect of which a summary trial is prescribed under any provision of this Act, and notwithstanding anything in any other enactment shall impose the penalties prescribed that provision.

(6) The jurisdiction conferred under subsection (5) of this section shall be in addition to and not in derogation of any jurisdiction or power conferred under any enactment, and nothing in that subsection shall be construed as derogating from the provisions of this section 3 (1) of the territorial Waters Act (which imposes restrictions on trials of persons other than Nigerian citizens offences committed on the open sea within the territorial Waters of Nigeria). Cap. 428 [Cap T5]

13. Enforcement and application of fines
(1) Where a fine imposed by a court in proceedings against the owner or master of a vessel for an offence under this Act is not paid at the time ordered by the court, the court shall, in addition to any other powers for enforcing payment, have power to direct the amount remaining unpaid to be levied by distress or otherwise taken in execution by way of poinding and sale of the vessel, her tackle, furniture and apparel:

Provided that nothing in this subsection shall be construed as authorising a court other than a High Court or other courts of equivalent superior jurisdiction thereto direct the poinding and sale of any vessel.

(2) Where a person is convicted of an offence under section 1 or 3 of this Act, and the court impose a fine in respect of the offence then if it appears to the court that any person has incurred, or will incur, expenses in removing any pollution, or making good any damage, which is attributable to the offence, the court may order the whole or apart of the fine to be paid to that person forwards defraying those expenses.

14. General provisions as to application of Act
(1) The provisions of this Act, except provisions which are expressed to apply only to Nigerian ships, shall (subject to any exemptions expressly conferred by or under this Act) apply to all vessels, whether registered or not, of whatever nationality.

(2) The National Council of Ministers may by order direct that, subject to such exceptions and modifications as may be specified in the order, any regulations made under section 5 of this Act, or under subsection (1) of 7 of this Act, shall apply to ships registered in countries and territories other than Nigeria, at any time when they are in a harbour in Nigeria, or are within the seaward limits of the territorial waters of Nigeria while on their way to or from a harbour in Nigeria.

(3) An order under subsection (2) of this section shall not be made so as to impose different requirements in respect of ships of different countries or territories:

Provided that if the National Council of Ministers is satisfied, as respects any country or territory, that ships registered there are required, by the law of that country or territory, to comply with the provisions which are substantially the same as, or equally effective with, the requirements imposed by virtue of the order, the National Councils of Ministers may by order direct that those requirements shall not apply to any ship registered in that country or territory if the ship complies with the said provisions applicable thereto under the law of that country or territory.

(4) No regulation shall by virtue of an order under this section apply to any ships as being within a harbour, or, as the case may be, on her way to or from the harbour, but for stress of weather or any other circumstance which neither the master nor the owner not the charterer (if any) of the ship could have prevented or forestalled.

15. Power to Grant Exemptions
The National Council of Ministers may exempt any vessels or classes of vessels from any provisions of this Act or of any regulations made thereunder, either absolutely or subject to such conditions as it thinks fit.
16. Application of Act to Government owned ships

(1) Nothing in this Act shall be construed to apply to vessels of the Nigerian Navy, nor to Government ships in the service of the Nigerian Navy while employed for purposes of the Nigerian Navy.

(2) Subject to subsection (1) of this section—
   (a) provisions to this Act which are expressed to apply only to Nigerian ships apply —
      (i) to Government ships registered, in Nigeria,
      (ii) to Government ships, not so registered, which are held for the purposes of the Government of the Federation or of a State, as they apply to other ships which are registered in Nigeria as Nigerian ships;
   (b) provisions of this Act which are expressed to apply to vessels generally apply to Government ships as they apply to other vessels.

(3) In this section, “Government ships” means ships which belong to the Government of the Federation or of a State other than those within subsection (1) of this section.

17. Enforcement of Convention relating to oil pollution

(1) The National Council of Ministers may by order published in the Federation Gazette empower such persons as may be designated by or under the Order to go on board any ship to which the Convention of 1954 to 1962 applies, while the ship is within a harbour in Nigeria and to require production of any records required to be kept in accordance with that Convention.

(2) An Order under this section may, for the purposes of this Act and with necessary modifications, apply any of the provisions of this Act relating to production and inspection of records, and the taking of copies of entries therein, and to the admissibility in evidence of such records and copies, including any provisions of the Merchant Shipping Act applied by those provisions and including any penal provisions of this Act in so far as they relate to those matters. [Cap M11]

(3) For the purposes of this section the National Council of Ministers, if satisfied that the Government of any country has accepted, or denounced, the Convention of 1954 to 1962 extends, or has ceased to extend, to any territory, may by Order make a declaration to that effect; and in this section “ship to which the Convention of 1954 to 1962 applies” means a ship registered in—
   (a) a country the Government of which has been so declared to have accepted that Convention and has not been so declared to have denounced it; or
   (b) a territory to which it has been so declared that the Convention extends, not being a territory to which it has been so declared that the Convention has ceased to extend.

(4) Subsection (3) of this section shall apply to any subsequent Convention, in so far it relates to the prevention of pollution of the sea by oil, as those provisions apply to the Convention of 1954 to 1962.

18. Annual Report

The Minister shall, as soon as possible after the end of each calendar year, prepare and submit to the National Council of Ministers a report on the exercise and performance of his functions under this Act, which shall include such observations as he may think fit to make on the operation during that year of this Act, of the Convention of 1954 to 1962 and of any subsequent Convention.


(1) The administrative expenses incurred by the Minister for the purpose of this Act shall be a charge upon the Consolidated Revenue Fund of the Federation.

(2) Any fees received by the Minister under this Act shall be paid into the Consolidated Revenue Fund.

20. Interpretation

(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say —
   “barge” includes a lighter or any similar vessel;
   “harbour authority” means the Nigeria Ports Authority established under the provisions of the Ports Act; Cap. 361 [Cap. N126]
   “harbour master” means the harbour master duly appointed by the harbour authority under section 44 of the Ports shall include any person authorised by that authority to assist him; Cap. 361 [Cap. N126]
   “harbour in Nigeria” means a port, estuary, haven, dock, or other place which fulfils the following conditions, that is to say —
      (a) that it contains waters to which this section applies; and
      (b) that the harbour authority is empowered to make charges in respect of vessels entering that place or
using facilities therein;

“heavy diesel oil” means marine diesel oil, other than distillates of which more than distillates of which more than half the volume distils at a temperature not exceeding 3400 Centigrade where tested by the A.S.T.M. (American Society for testing Materials) standard method D 86/59;

“miles” means a nautical mile, that is to say, a distance of six thousand and eighty feet;

“Minister” means the Minister of Transport;

“Nigerian ship” means a ship whose port of registry is Nigeria;

“oil” means oil of any description and includes spirit produced from oil of any description, and also includes coals tar, and any power conferred by any provision of this Act to prescribe descriptions of oil for purposes of that provision shall be construed accordingly;

“oil reception facilities” has the meaning assigned to it, by section 3 of this Act;

“oil residues” means any waste material consisting of, or arising from, oil or a mixture containing oil;

“outside the territorial waters of Nigeria” means outside the seaward limits of those water;

“place on land” includes any thing resting on the bed or shore of the sea, or of any other waters to which section 3 above applies, and also includes anything afloat (other than a vessel) if it is anchored or attached to the bed or shore of the sea or of any such waters; and “occupier”, in relation to any such thing as mentioned in the preceding provisions of that section, if it has no occupier, means the owner thereof, and, in relation to a railway wagon or road vehicle, means the person in charge of the wagon or vehicle and not the occupier of the land on which the wagon or vehicle stands.

“sea” includes any estuary or arm of the sea;

“ship” includes any sea going vessel of any type whatsoever, and also includes floating crafts (whether self propelled or towed by another vessel) making a sea voyage;

“subsequent Convention” has the meaning assigned to it by section 1 of this Act;

“surveyor of ships” means a surveyor of ships appointed or recognised as such under section 133 of the Merchant Shipping Act; Cap. 224 [Cap M11]

“tanker” means a cargo ship constructed or adapted for the carriage in bulk of liquid cargoes of an inflammable nature;

“territorial Waters of Nigeria” has the meaning assigned to it by section 1(1) of the Territorial Waters Act; Cap. 428

“transfer”, in relation to oil, means transfer in bulk;

(2) Any reference in any provision in this Act to “summary conviction” shall be construed—
(a) as respects a magistrates court, as a reference to conviction by the magistrate's court, and
(b) as respects a High Court, as a reference to conviction by the High Court where the accused has been committed for trial after a preliminary inquiry by a magistrate.

(3) Any reference in any provision of this Act to a mixture containing oil shall be construed as a reference to any mixture (being a mixture of oil, or, as the case may be, of oil of a description referred to in that provision, with water or with any other substance) having an oil content of 100 parts or more in 1,000,000 parts of the mixture.

21. Short Title
This Act may be citied as the Oil in Navigable Waters Act

SCHEDULE
[Section 2 (2)]

Prohibited Sea Areas

1. All sea areas within 50 miles from land and outside the territorial waters of Nigeria.

2. The whole of the following sea areas, in so far as they extend 50 miles from the nearest land, that to say-
   (a) Pacific Oceans
   (i) The Canadian Western Zone
      The Canadian Western Zones shall extend for a distance of 100 miles from the nearest land, along
the west coast of Canada.

(b) North Atlantic Oceans, North Sea and Baltic Sea

(i) **The North-West Atlantic Zone**
   The North-West Atlantic Zone shall comprise the sea areas within a line drawn from latitude 38° 47’ north, longitude 73° 43’ west to latitude 39° 58’ north, longitude 68° 43’ west thence to latitude 42° 05’ north, longitude 64° 37’ west thence along the east coast of Canada at a distance of 100 miles from the nearest land;

(ii) **The Icelandic Zone**
   The Icelandic Zone shall extend for a distance of 100 miles from the nearest land along the coast of Iceland;

(iii) **The Norwegian, North Sea and Baltic Sea Zone**
   The Norwegian, North Sea and Baltic Sea Zone shall extend for a distance of 100 miles from the nearest land along the coast of Norway and shall include the whole of the North Sea and of the Baltic Sea its Gulfs;

(iv) **The North-East Atlantic Zone**
   The North-East Atlantic Zone shall include the sea areas within a line drawn between the following positions:

<table>
<thead>
<tr>
<th>Latitude</th>
<th>Longitude</th>
</tr>
</thead>
<tbody>
<tr>
<td>62° north</td>
<td>2° east</td>
</tr>
<tr>
<td>64° north</td>
<td>00°</td>
</tr>
<tr>
<td>64° north</td>
<td>10° west</td>
</tr>
<tr>
<td>60° north</td>
<td>14° west</td>
</tr>
<tr>
<td>54° 30’ north</td>
<td>30° west</td>
</tr>
<tr>
<td>53° north</td>
<td>40° west</td>
</tr>
<tr>
<td>44° 20’ north</td>
<td>40° west</td>
</tr>
<tr>
<td>44° 20’ north</td>
<td>30° west</td>
</tr>
<tr>
<td>46°north</td>
<td>20° west thence towards Finisterre at the intersection of the 50 mile limit.</td>
</tr>
</tbody>
</table>

(v) **The Spanish Zone**
   The Spanish Zone shall comprise the areas of the Atlantic Ocean within a distance of 100 mile from the nearest land along the coast of Spain and shall come into operation on the date on which the present Convention shall have come into force in respect of Spain.

(vi) **The Portuguese Zone**
   The Portuguese Zone shall comprise the area of the Atlantic Ocean within a distance of 100 mile from the nearest land along the coast of Portugal and shall have come into force in respect of Portugal.

(c) Mediterranean Adriatic Seas

**The Mediterranean and Adriatic Zones**
   The Mediterranean and Adriatic Zone shall comprise the sea areas within a distance of 100 miles from the coast of each of the territories bordering the Mediterranean and Adriatic Seas and shall come into operation in respect of each territory on the date on which the present Convention shall come into force in respect of that territory.

(d) Black Sea and Sea of Azov

**The Black Sea and Sea of Azov Zone**
   The Black Sea and Sea of Azov Zone shall comprise the sea areas within a distance of 100 miles from the nearest land along the coasts of each of the territories bordering the Black Sea and Sea of Azov and shall come into operation in respect of each territory on the date on which the present Convention shall have come into force in respect of that territory:

Provided that the whole of the Black Sea and of Azov shall become a prohibited zone on the date on which the present Convention shall come into force in respect of Romania and the Union of Soviet Socialist Republics.

(e) Red Sea

**The Red Sea Zone**
   The Red Sea Zone shall comprise the sea areas within a distance of 100 miles from the nearest land along the coasts of each of the territories bordering the Red Sea and shall come into operation in
respect of each territories on the date on which the present Convention shall have come into force in respect of that territory.

(f) Persian Gulf
   (i) **The Kuwait Zone**
   The Kuwait Zone shall comprise the sea areas within a distance of 100 miles from the nearest land along the coast of Kuwait.

   (ii) The Saudi Arabian Zone
   The Saudi Arabian Zone shall comprise the sea areas within a distance of 100 miles from the nearest land along the coast of Saudi Arabia and shall come into operation on the date on which the present Convention shall have come into force in respect of Saudi Arabia.

(g) Arabian Sea, Bay of Bengal and Indian Ocean
   (i) **The Arabian Sea Zone**
   The Arabian Sea Zone shall comprise the sea areas within a line drawn between the following positions:

<table>
<thead>
<tr>
<th>Latitude</th>
<th>Longitude</th>
</tr>
</thead>
<tbody>
<tr>
<td>23° 33’ north</td>
<td>68° 20’ east</td>
</tr>
<tr>
<td>23° 33’ north</td>
<td>67° 30’ east</td>
</tr>
<tr>
<td>22° north</td>
<td>68° east</td>
</tr>
<tr>
<td>20° north</td>
<td>70° east</td>
</tr>
<tr>
<td>18° 55’ north</td>
<td>72° east</td>
</tr>
<tr>
<td>15° 40’ north</td>
<td>72° 42’ east</td>
</tr>
<tr>
<td>8° 30’ north</td>
<td>75° 48’ east</td>
</tr>
<tr>
<td>7° 10’ north</td>
<td>76° 50’ east</td>
</tr>
<tr>
<td>7° 10’ north</td>
<td>78° 14’ east</td>
</tr>
<tr>
<td>9° 06’ north</td>
<td>79° 32’ east</td>
</tr>
</tbody>
</table>

   and shall come into operation on the date on which the present convention shall have come into force in respect of Indian.

   (ii) **The Bay of Bengal Coastal Zone**
   The Bay of Bengal Coastal Zone shall comprise the sea areas between the nearest land and a line drawn the following positions:

<table>
<thead>
<tr>
<th>Latitude</th>
<th>Longitude</th>
</tr>
</thead>
<tbody>
<tr>
<td>10° 15’ north</td>
<td>80° 50’ east</td>
</tr>
<tr>
<td>14° 30’ north</td>
<td>81° 38’ east</td>
</tr>
<tr>
<td>20° 20’ north</td>
<td>88° 10’ east</td>
</tr>
<tr>
<td>20° 20’ north</td>
<td>89° east</td>
</tr>
</tbody>
</table>

   and shall come into operation on the date on which the present Convention shall have come into force in respect of India.

   (iii) **The Malagasy Zone**
   The Malagasy Zone shall comprise the sea areas within a distance of 100 miles from the nearest land along the coast of Madagascar west of the Meridians of Cape d’Ambre in the north and of Cape Ste. Marie in the south and within a distance of 150 miles from the nearest land along the coast of Madagascar east of these meridians and shall come into operation when the present Convention shall have come into force in respect of Madagascar.

(h) Australia
   **The Australian Zone**
   The Australian Zone shall comprise the sea areas within a distance of 150 miles from the nearest land along the coasts of Australia, except off the north and west coasts of the Australian mainland between the point opposite Thursday Island and the point on the West coast of 200 south latitude.
OIL PIPELINES ACT 1956

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OIL PIPELINES ACT

An Act to make provision for licences to be granted for the establishment and maintenance of pipelines incidental and supplementary to oilfields and oil mining, and for purposes ancillary to such pipelines.
[1956 No. 31. 1956 No. 24]

Commencement [4th October, 1956]

PART I
Preliminary

1. Short title and extent
This Act may be cited as the Oil Pipelines Act and shall apply throughout the Federation.

2. Interpretation
In this Act, unless the context otherwise requires—
“licence” means an oil pipeline licence granted under the provisions of this Act;
“Minister” means the Minister for the time being charged with responsibility for matters incidental to oilfields and oil mining;
“oil pipeline” has the meaning given to it in section 11 (2) of this Act.

3. Power to grant permit to survey and oil pipeline licence
The Minister may, Subject to the provisions of this Act grant
(a) permits to survey routes for oil pipelines; and
(b) licences to construct, maintain and operate oil pipelines.
Provided that each licence shall be issued in respect of and authorise the construction, maintenance and operation of one pipeline only.

Part II
Permit to Survey

4. Permit to survey
(1) Any person may make an application to the Minister in accordance with the provisions of this Act and of any regulations made thereunder for the grant of a permit to survey the route for an oil pipeline for the transport of mineral oil, natural gas, or any product of such oil or such gas to any point of destination to which such person requires such oil, gas or product to be transported for any purpose connected with petroleum trade or operations.

(2) Every application for a permit to survey shall specify the approximate route or alternative routes proposed.

(3) The Minister may —
(a) grant the permit to survey on payment of the fees required by section 31 of this Act to be paid by the application on the submission of the application and on grant of the permit to survey respectively; or
(b) for reasons which to him appear sufficient, refuse to grant the permit to survey.

(4) If the Minister refuses to grant the permit to survey he shall notify the applicant in writing of such refusal and the reasons therefor.

5. Effect of permit to survey
(1) A permit to survey shall entitle the holder, subject to the provisions of section 6 of this Act, to enter together with his officers, agents, workmen or other servants and with any necessary equipment or vehicles, on any land upon the route specified in the permit or reasonably close to such route for the following purposes—
(a) to survey and take levels of the land;
(b) to dig and bore into the soil and subsoil;
(c) to cut and remove such trees and other vegetation as may impede the purposes specified in this subsection; and
(d) to do all other acts necessary to ascertain the suitability of the land for the establishment of an oil pipeline or ancillary installations, and shall entitle the holder, with such persons, equipment or vehicles as aforesaid to pass over land adjacent to such route to the extent that such may be necessary or convenient for the purpose of obtaining access to land upon the route specified.
(2) The Minister may, upon application by the holder of a permit to survey, vary the route specified in such permit, but such variation shall not invalidate or make illegal any act done by the holder pursuant to the permit prior to such variation, nor prejudice the rights of any person under this Act with reference to any act done by the holder pursuant to the permit prior to such variation.

6. Notice before entry, damage, compensation, etc.

(1) Except with the previous consent of the owner or occupier, no person shall under the authority of section 5 of this Act enter any building or upon any enclosed court or garden attached to any building, without previously having given the owner or occupier at least fourteen days’ notice of his intention to do so, nor enter upon any cultivated land without having given such notice to the owners or occupiers thereof or having affixed such notice in some prominent position upon such land.

(2) No person shall under the authority of section 5 of this Act enter any of the lands described in section 15 of this Act except with the prior assent of the owners or occupiers or persons in charge of such lands.

(3) The holder of a permit to survey acting under the authority of section 5 of this Act shall take all reasonable steps to avoid unnecessary damage to any land entered upon and any buildings, crops or profitable trees thereon, and shall make compensation to the owners or occupiers for any damage done under such authority and not made good.

(4) In the event of dispute as to the amount of compensation to be paid or as to whether or to whom any compensation shall be paid the provisions of Part IV of this Act shall apply.

Part III
Oil Pipeline Licence

7. Oil pipeline licence

(1) The holder of a permit to survey may make an application to the Minister in accordance with the provisions of this Act and of any regulations made thereunder for the grant of an oil pipeline licence in respect of any oil pipeline the survey of the route for which has been completed by the applicant.

(2) The Minister may—
   (a) grant the licence on payment of the fees required by section 31 of this Act to be paid by the applicant on the submission of the application and on the grant of the licence respectively; or
   (b) for reasons which the Minister considers sufficient, refuse to grant the licence.

(3) If the Minister refuses to grant the licence, he shall notify the applicant in writing of such refusal and the reasons therefor.

(4) No person other than the holder of a licence shall construct, maintain or operate an oil pipeline.

(5) Every person who acts in contravention of subsection (4) shall be guilty of an offence and shall be liable on conviction to a term of imprisonment not exceeding two years or to a fine not exceeding $1000 or to both such imprisonment and such fine.

(6) The Minister may require any person who is convicted of an offence under this section to have the pipeline in respect of which the offence was committed and any ancillary installation removed to the extent that the Minister does not elect to purchase such pipeline or any such installation or any part thereof. In the event of failure to agree on the purchase price the same shall be determined by arbitration.

(7) An offender who is required by the Minister under subsection (6) of this section to have a pipeline or any ancillary installation removed shall make good any damage done to any land by such removal.

8. Application for licence and notice thereof

(1) An applicant for a licence shall deliver to the Minister an application for the same stating the terminal points and giving a description of the pipeline and accompanied by a plan of the proposed route of the pipeline sufficient to identify the land affected thereby and the position of any pumping stations, tanks or other ancillary installations.

(2) The Minister shall upon receipt of the application under section (1) appoint a date not less than six weeks ahead for the hearing of objections, if any, and shall nominate the person or persons by whom and the place or places at which any such objections shall be heard, and shall thereupon cause a notification of such date and other particulars and of the places at which objections shall be lodged to be made in the Federal Gazette and in the Gazette of each State concerned.

(3) Before or upon application being made in accordance with subsection (1) of this section notice of the application shall be given by the applicant in the following manner—
(a) by publication thereof in the State Gazette of each State through which the route of the projected pipeline passes;
(b) by publication thereof in such newspapers circulating in the areas through which the route of the projected pipeline passes as the Minister may require;
(c) by posting or delivering the same to the following persons entitled to be carrying on operations in the area which would be affected by the grant of a licence—
   (i.) holders of exclusive prospecting licences, mining right, oil exploration licences,
   (ii.) lessees of mining leases, temporary mining leases or mining leases;
(d) by publication in areas likely to be affected by the licence in such other manner as the Minister may direct, and by delivering to administrative officers having responsibilities in such area or to such officers as the Minister may specify such numbers of copies of such notice as the Minister may require for distribution to the occupiers or owners of land in the area so affected who might not otherwise become aware of such notice.

(4) Such notice shall contain a description of the proposed pipeline and its route and the proposed ancillary installations and shall set out a list of places and times at which copies of a plan sufficient to identify the land affected thereby may be inspected; and each copy of such notice shall require that objections (if any) shall be made at least seven days before the date to be appointed by the Minister for the hearing of objections and delivered at the places to be appointed by him for such lodgment.

9. Notice of objection
   (1) Any person whose land or interest in land may be injuriously affected by the grant of a licence may within the period specified for objections lodge verbally or in writing at one of the specified addresses notice of objection stating the interest of the objector and the grounds of objection.
   (2) Matters relating to quantum of compensation shall not be material grounds to include a notice of objection under this section.
   (3) It shall be the duty of any public officer who receives a verbal objection in the course of his duties to record the name and address, interest and grounds of objection of any person lodging such a verbal objection in accordance with this section.

10. Inquiry and report thereafter
   (1) Upon the date fixed for the hearing of objections, the person or persons appointed by the minister shall inquire into such objections, giving all parties concerned an opportunity to be heard, and a report thereof shall be heard, and a report thereof shall be made without delay to the Minister.
   (2) Matters relating to quantum of compensation shall not be material grounds for objections under this section.
   (3) If, after consideration of report, the Minister considers that the licence should be granted he shall inform the President accordingly; but if the Minister considers that a licence should not be granted in respect of the proposed route or any part of it, he shall so inform the applicant and the objector or objectors concerned, and thereupon the applicant shall be entitled to receive a permit to survey such other route or routes as he may propose or to submit an application for a licence in respect of another route and the provisions of Parts II and III of this Act will apply in respect thereof.

11. Rights and obligations of the holder of a licence
   (1) A licence shall entitle the holder, his officers, agents, workmen or other servants with any necessary equipment or vehicles, subject to the provisions of sections 14, 15 and 16 of this Act, to enter upon, take possession of or use a strip of land of a width not exceeding two hundred feet or of such other width or widths as may be specified in the licence, and thereon thereover or thereunder to construct, maintain and operate an oil pipeline and ancillary installations.
   (2) For the purpose of this Act, an oil pipeline means a pipeline for the conveyance of mineral oils, natural gas and any of their derivatives or components, and also any substance (including steam and water) used or intended to be used in the production or refining or conveying of mineral oils, natural gas, and any of their derivatives or components.
   (3) The power to construct, maintain and operate an oil pipeline shall include a power to construct, maintain and operate on the route of such pipeline all other installations (referred to in this Act as “ancillary installations”) that are ancillary to the construction, maintenance and operation of such pipeline, including roadways, telephone and telegraph lines (subject to section 4 of the Telegraph Act), electric power cables (subject to the provisions of the Electricity Act), pumping stations, storage tanks and loading terminals.
   (4) The holder of a licence shall have power to dig and get free of charge any gravel, sand, clay, stone or other similar substance (not being a mineral within the meaning assigned thereto in the Minerals
Act) within any land included within the area covered by the licence to the extent that such gravel, sand, clay, stone or other substance, will facilitate the construction or maintenance of a pipeline or any ancillary installation.

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(5) The holder of a licence shall pay compensation—
(a) to any person whose land or interest in land (whether or not it is land in respect of which the licence has been granted) is injuriously affected by the exercise of the rights conferred by the licence, for any such injurious affection not otherwise made good; and
(b) to any person suffering damage by reason of any neglect on the part of the holder or his agents, servants or workmen to protect, maintain or repair any work, structure or thing executed under the licence, for any such damage not otherwise made good; and
(c) to any person suffering damage (other than on account of his own default or on account of the malicious act of a third person) as a consequence of any breakage of or leakage from the pipeline or an ancillary installation, for any such damage not otherwise made good,

and if the amount of such compensation is not agreed between any such person and the holder, it shall be fixed by a court in accordance with Part IV of this Act.

(6) For the removal of doubt it is hereby declared that the powers granted to the holder of a licence under this Act shall be exercisable only subject to the provisions of this Act and of any other enactment or rule law.

12. Power to impose restrictions on use of adjoining lands

(1) It shall be lawful for the President upon application by the holder of a licence at the time of the grant of such licence or at any time thereafter, to make an order ancillary to such licence prohibiting or restricting the construction of any building or type of building, or the carrying on of any cultivation or industrial or mining or oil mining activity or any specified type of cultivation or industrial or mining or oil mining activity within a specified distance, not exceeding one hundred feet, from the boundaries of the land or of any part of the land in respect of which such licence is granted.

(2) An order made in accordance with the provisions of this section shall be deemed to be part of the licence to which it is ancillary and the provisions of this Act shall apply accordingly, and in the event of an application for such an order being made after the grant of the licence to which it is ancillary the provisions of sections 8, 9 and 10 of this Act shall apply as though the application were for a new licence.

13. Deviations

(1) The right to make a deviation from the route specified in the licence may be granted at any time by the President either by amendment of the licence or by a new licence.

(2) Section 8, 9 and 10 of this Act shall apply to an application in respect of a deviation from the route specified in the licence as though it were an application for a new licence: provided that where the Minister thinks fit, the Minister may approve in respect of minor deviations an agreement reached between the holder of the licence and any person or persons whose land or interest in land may be injuriously affected by such minor deviations.

(3) The grant of the right to make a deviation under this section shall not invalidate or make illegal any act done by the holder of the licence prior to such grant, nor prejudice the rights of any person under this Act with reference to any act done by the holder prior to such grant.

14. Restrictions in respect of certain public facilities

A licence shall not, except so far as may be expressly permitted by the terms of the licence, authorise the holder to—
(a) construct any works upon any land which is the site of or is within fifty yards of any public road, dam, reservoir or building belonging to or occupied by the Federal or a State Government or Local Government, or upon any land appropriated for any railway or situate within one hundred yards of any railway; or
(b) make such alteration in the flow of water in any navigable waterway, as might obstruct or interfere with the free and safe passage of vessel, canoes or other craft; or
(c) construct such works in, under or over, or deposit such material in or make such alteration in the flow of water required for domestic, industrial or irrigational use as would diminish or restrict the quantity of water available for such purpose, or construct such works or make such deposit in any waterway as would cause flooding or erosion,

without the prior permission in writing of the Minister or of such officer as may be nominated by the Minister.
15. **Restrictions upon entry, etc. in respect of venerated land**

   (1) A licence shall not authorise any person to enter upon, take possession of or use any of the following lands unless the owners or occupiers or the persons in charge thereof have given their prior assent—
   
   (a) any land occupied by any burial ground or cemetery;
   
   (b) any land containing any grave, grotto, area, tree or thing held to be sacred or the object of veneration.

   (2) If any doubt shall arise whether any lands fall within those described in this section, or who the owners or occupiers or persons in charge thereof are, the decision of the High Court shall be final.

16. **Obligations in respect of accommodation works**

   (1) The holder of a licence shall make and maintain for the accommodation of the owners or occupiers of any land in respect of which the licence has been granted or of the owners or occupiers of adjoining land or for the accommodation of the users of any customary track or path such crossings, bridges, culverts, drains or passages as may be necessary for the purpose of making good any interruption to the use of such land or the amenities thereof or to the use of such customary track or path caused by the exercise of the powers granted in accordance with this Act:

   Provided that it shall not be necessary to make good any interruption in respect of which compensation under this Act has been paid:

   Provided further that upon accommodation works being provided in accordance with the provisions of this section no further accommodation works shall be necessary in respect of any change of use of any land or omission of any person not being the holder of the licence or his agent, workman or servant.

   (2) The holder of a licence may for the purpose of exercising the powers conferred upon him alter the level or position of any pipe, conduit, watercourse, drain, or electric, telephone or telegraph wire or post, but shall give reasonable notice of his intention so to do to the person in control thereof and shall execute the work to the reasonable satisfaction of that person.

   (3) Where there is a danger that a tree standing near an oil pipeline may fall and damage such pipeline or an ancillary installation the holder of the licence may after giving notice to an administrative officer having responsibility in the area fell the tree or otherwise deal with it, and in such event shall upon application by any person interested in the tree pay such compensation as such officer shall consider necessary.

17. **Terms and conditions of licences**

   (1) A licence may be granted for such period not exceeding twenty years as the Minister may direct; and

   (2) Nothing in subsection (1) of this section shall affect the validity of any licence granted before the commencement of this Act for a period exceeding twenty years and every such licence shall, unless earlier revoked, be valid for the period for which it was granted;

   (3) The holder of a licence may at any time during the term of the licence determine the licence in respect of all or any part of the land included therein by giving to the Minister not less than three months previous notice in writing to that effect;

   (4) Every licence shall be subject to the provisions contained in this Act as in force at the date of its grant and to such regulations concerning public safety, the avoidance of interference with works of public utility in, over and under the land included in the licence and the prevention of pollution of such land or any waters as may from time to time be in force.

   (5) In the absence of express provision to the contrary, a licence shall be deemed to include the following conditions to be performed and observed by the holder —

   (a) to commence the construction of an oil pipeline within a period to be specified by the Minister and to complete the same and all necessary ancillary installations with reasonable despatch, and to maintain the same during the currency of the licence;

   (b) to allow free access to any public officer authorised by or on behalf of the Minister in writing, to enter and inspect any work, structure or thing made or done in accordance with the licence;

   (c) to indemnify the Minister against any claims arising from injury to any person or damage to any public or private property as a result of any act or thing done by the holder of the licence or his agents, servants or workmen in accordance with the licence;

   (d) not to assign, sublet, mortgage or otherwise part with the licence or any right or interest thereunder without the previous consent in writing of the Minister.

   (6) Every licence shall be deemed to include a provision that any question or dispute arising between the President or the Minister and the holder of the licence regarding the licence or any matter connected therewith shall, if it cannot be resolved by agreement, be referred to arbitration.
18. Use of oil pipeline by a person other than the owner

(1) An application may be made to the Minister with respect to an oil pipeline constructed, maintained and operated in pursuance of a licence granted under this Act by any person other than the owner of the pipeline who seeks a right to have conveyed by the pipeline on his behalf any of the things mentioned in subsection (2) of section 11 of this Act which the pipeline is designed to convey.

(2) Every such application shall be made in the prescribed manner and form containing the prescribed particulars.

(3) The Minister shall consider every such application in consultation with the applicant and the owner of the pipeline to which the application relates.

(4) If upon such consideration the Minister is satisfied that the pipeline could, without prejudice to the proper and efficient operation thereof for the purpose of the conveyance on behalf of the owner, in the quantity required by him, of the thing which it is designed to convey, be so operated as to permit of the conveyance thereby on behalf of the applicant of the thing the right to the conveyance of which is sought by the applicant, the Minister shall declare that he is so satisfied.

(5) Subject to the subsequent provisions of the section, the conditions of the use of the pipeline by the applicant may be determined by agreement between the owner and the applicant and, failing such agreement, shall, subject as aforesaid, be determined by the Minister.

(6) Where the Minister makes under subsection (4) of this section a declaration with regard to a pipeline, he may by notice served on the owner impose such requirements as he thinks it necessary or expedient to impose for all or any of the following purposes, namely—

(a) securing to the person whose application resulted in the making of the declaration the right to have conveyed by the pipeline the thing to which the application related;

(b) regulating the charges to be made for the conveyance of such thing by the pipeline on behalf of that person;

(c) securing that the exercise of a right secured by virtue of paragraph (a) of this subsection is not prevented of impeded, but requirements imposed for the purpose specified in paragraph (a) of this subsection shall be so framed as, in the Minister's opinion, to secure that compliance therewith will not prejudice the proper and efficient operation of the pipeline for the purpose of the conveyance on behalf of the owner thereof, in the quantity required by him, of the thing which it is designed to convey.

(7) A notice served on the owner of a pipeline under subsection (6) may authorise such owner to recover, from the person to whom a right is secured by the notice by virtue of paragraph (a) of that subsection, payments of such amounts as may be determined in accordance with provisions in that behalf contained in the notice, being payments in consideration of the rights being secured to such person.

(8) If the owner of a pipeline fails to comply with a requirement imposed by a notice served on him under subsection (6) of this section with reference to the pipeline, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding N1000; and, if the failure continues after his conviction he shall be guilty of a further offence and liable, in respect thereof, to a fine not exceeding fifty naira for which the failure continues.

(9) The Minister may by notice to the owner of a pipeline whose failure to comply with any such requirement as aforesaid continues after his conviction of a first offence under subsection (8) of this section revoke the licence of such owner.

PART IV

Compensation

19. Court having jurisdiction as to compensation

If there be any dispute as to whether any compensation is payable under any provision of this Act or if so as to the amount thereof, or as to the persons to whom such compensation should be paid, such dispute shall be determined by a magistrate exercising civil jurisdiction in the area concerned if such magistrate has in respect of any other civil matter monetary jurisdiction of at least as much as the amount of compensation claimed and if there be no such magistrate by the High Court exercising jurisdiction in the area concerned and, notwithstanding the provisions of any other Act or law, in respect of the decision of a magistrate in accordance with this section there shall be an appeal to the High Court of the State and in respect of a decision of the High Court of the State under this section, whether original or appellate, there shall be an appeal to the Court of Appeal:

Provided that nothing in this Act shall be deemed to confer power upon a magistrate to exercise jurisdiction in a matter raising any issue as to the title to land or as to the title to any interest in land.
20. **Basis of assessment of compensation**

(1) If a claim is made under subsection (3) of section 6 of this Act, the court shall award such compensation as it considers just in respect of any damage done to any buildings, crops or profitable trees by the holder of the permit in the exercise of his rights thereunder and in addition may award such sum in respect of disturbance (if any) as it may consider just.

(2) If a claim is made under subsection (5) of section 11, the court shall award such compensation as it considers just, having regard to-

(a) any damage done to any buildings, crops or profitable trees by the holder of the licence in the exercise of the rights conferred by the licence; and

(b) any disturbance caused by the holder in the exercise of such rights; and

(c) any damage suffered by any person by reason of any neglect on the part of the holder or his agents, servants or workmen to protect, maintain or repair any work, structure or thing executed under the licence; and

(d) any damage suffered by any person (other than as stated in such subsection (5) of this section) as a consequence of any breakage of or leakage from the pipeline or an ancillary installation; and

(e) loss (if any) in value of the land or interests in land by reason of the exercise of the rights as aforesaid, and also having regard to any compensation already awarded in accordance with subsection (1) of this section.

(3) In determining the loss in value of the land or interests in land of a claimant the court shall assess the value of the land or the interests injuriously affected at the date immediately before the grant of the licence and shall assess the residual value to the claimant of the same land or interests consequent upon and at the date of the grant of the licence and shall determine the loss suffered by the claimant as the difference between the values so found, if such residual value is a lesser sum.

(4) No compensation shall be awarded in respect of unoccupied land as defined in the Land Use Act, except to the extent and in the circumstances specified in that Act.

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(5) In determining compensation in accordance with the provisions of this section the court shall apply the provisions of the Land Use Act, so far as they are applicable and not in conflict with anything in this Act as if the land or interests concerned were land or interests acquired by the President for a public purpose.

(6) If the total sum awarded by the court in accordance with this section exceeds an amount already offered to the claimant to pay the costs of the proceedings; and if the sum so awarded does not exceed the amount offered by such holder the court shall either order the claimant to pay the cost of the proceedings or order each side to bear its own costs.

(7) Compensation (if any) awarded by the court in accordance with this section shall be a sum of money payable forthwith or shall consist of periodical instalments or partly one and partly the other:

Provided that nothing contained in this subsection shall preclude the court awarding additional compensation upon subsequent application if loss or damage from the operation of the oil pipeline be proved and the court is of opinion that such loss or damage is loss or damage not contemplated at the date of the original award.

21. **Compensation where local community interested**

Where the interests injuriously affected are those of a local community, the court may order the compensation to be paid to any chief, headman or member of that community on behalf of such community or that it be paid in accordance with a scheme of distribution approved by the court or that it be paid into a fund to be administered by a person approved by the court on trust for application to the general, social or educational benefit and advancement of that community or any section thereof.

22. **Parties in possession as owners to be deemed entitled to lands**

If any question arises respecting the title to the lands affected under this Act, the parties in possession as being the owners thereof, or in receipt of the rents of such lands as being entitled thereto at the time of service of notice under section 6 or 8 of this Act as the case may be, shall be deemed to have been lawfully entitled to such lands, unless the contrary be shown to the satisfaction of the court, and they and all parties claiming under them or consistently with their possession shall be deemed entitled to any compensation payable under this Act, but without prejudice to any subsequent proceedings against such parties at the instance of any person claiming to have a better right thereto.
23. Exoneration upon payment
The payment to any person to whom any compensation shall be paid or the payment into court of any compensation upon a decision of the court shall effectually discharge the person making such payment from seeing to the application or being answerable for the misapplication thereof:

Provided that where any person is in possession of any land affected by the provisions of this Act by virtue of any estate less than an estate of inheritance, or where any person is in possession thereof in any fiduciary or representative character, the compensation may be paid to such persons and in such proportions and instalments and after such notices as the court may direct.

PART V
Miscellaneous

24. Proceedings where possession of land withheld
If any person hinders or obstructs any person duly authorised in accordance with the provisions of this Act from entering upon taking possession of or using any lands in pursuance of this Act, the person so hindered or obstructed may apply ex parte at any time to the High Court exercising jurisdiction in the area for a writ of possession and such court may issue a writ of possession addressed to the sheriff under which any officer of the sheriff or police officer may forthwith eject any person so withholding possession.

25. Penalty for hindering the taking possession of lands, etc.
Every person who shall wilfully hinder or obstruct any person duly authorised from entering upon or taking possession of or using any land in pursuance of the provisions of this Act, or who shall molest, hinder or obstruct such person when in possession of such lands, or shall hinder or obstruct any officer of the sheriff or police officer when executing a writ of possession, shall be liable on summary conviction to a fine of fifty Naira or to imprisonment for three months.

26. Deviation in respect of land required for public purposes
It shall be lawful for the Minister to require deviation of the route of an oil pipeline so far as it affects any land required for a public purpose by the Government of the Federation or the Government of a State upon such terms as to compensation, or otherwise, as shall be agreed with the holder or failing such agreement as may be arrived at by arbitration.

27. Effect of breach of terms or conditions
(1) If there shall be a breach of any of the terms or conditions upon which a licence has been granted the Minister may by notice in writing require the holder of the licence to remedy such breach within such period being not less than three months as may be specified in such notice.

(2) If the holder of the licence shall fail within the period so specified to remedy such breach the Minister may by notice to the holder revoke the said licence, without prejudice to anything lawfully done thereunder and without prejudice to any claims for compensation against the holder made in accordance with the provisions of this Act.

28. Disposal of pipeline and installations on termination of licence
(1) Upon the expiration or sooner determination of a licence, the holder of the licence shall before or within three months after the termination of such licence be at liberty upon giving three weeks notice to the Minister to remove such pipeline and any ancillary installation to the extent that the Minister does not elect to purchase such pipeline or any such installation or any part thereof. In the event of the Minister and the holder of the licence not agreeing as to the purchase price the same shall be determined by arbitration.

(2) The holder of a licence shall make good any damage done to the land included in the licence by removal of a pipeline or ancillary installation.

29. Sale of licence by court to be approved by Minister
No licence granted under this Act shall be sold by or under the orders of a court in execution of a Act or otherwise howsoever, except to a purchaser approved in writing by the Minister and under terms to be approved by the Minister.

30. Effect of this Act upon other enactments
(1) A copy of any permit to survey and of any licence granted under this Act, certified by the Director-General having supervision over the department of the Federal Government carrying out the provisions of this Act to be a true copy, together with any plans or documents that may be prescribed by regulations made under this Act, shall be delivered by the holder of such permit or licence to the registry established
(2) The provisions of the Land Use Act shall not apply to any such permit or licence, but any such permit or licence shall in so far as it affects any land take effect as against other instruments affecting the same land as though it had been registered under Act upon the date of the grant of such permit or licence.

(3) The grant of a permit or licence under this Act shall not be invalid by reason of any provision of the Land Use Act nor shall a permit or licence be subject to any provision or either of such Act.

31. Fees
   (1) The applicant for a permit to survey shall pay a fee of ₦20 upon submitting his application, and a fee of ₦50 upon the grant of such permit.
   (2) The applicant for a licence shall pay a fee of ₦50 upon submitting his application, and a fee of ₦200 upon the grant of such licence.
   (3) The holder of a permit shall pay a fee of ₦50 in respect of each variation of such permit.
   (4) The holder of a licence shall pay a fee of ₦200 in respect of each variation of such licence.
   (5) An annual fee shall be paid on each licence of ₦20 per mile of the length of the pipeline subject to a minimum of ₦200.
   (6) The holder of a licence shall pay a fee of ₦100 upon submitting his application for a restriction order under section 12 of this Act, and a fee of such amount as the Minister may determine not exceeding ₦400 on such order being made.

32. Offences by bodies corporate
   Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary, or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

33. Regulations
   The Minister may by regulation prescribe
   (a) the manner in which any application in accordance with the provisions of this Act shall be made and the forms to be used;
   (b) the manner in which the holders of exclusive prospecting licences, mining rights and mining leases granted under the Minerals Act or a licence granted under the Nigerian Coal Corporation Act or licences or leased granted under the Mineral Act may operate over an area subject to an oil pipeline licence and the manner in which the area covered by an oil pipeline licence may infringe on the area subject to an exclusive prospecting licence, mining right or mining lease or other licence or lease so granted;
   (c) measures in respect of public safety, the avoidance of interference with works of public utility in, over and under any land and the prevention of pollution of any land or water;
   (d) such matters relating to the construction, maintenance and operation of oil pipelines as the Minister considers it necessary or appropriate to prescribe;
   (e) generally for carrying into effect the purposes and provisions of this Act.

34. Delegation of powers of Minister
   The powers conferred on the Minister by this Act, or any of them, may be exercised by any officer of the Ministry of Petroleum Resources designated in that behalf by the Minister.

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OIL PIPELINES ACT
SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

1. Oil and Gas Pipelines Regulations.
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ARRANGEMENT OF SECTIONS

SECTION
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SCHEDULES

FIRST SCHEDULE
Provision of the Nigerian Ports Authority Act Applied

SECOND SCHEDULE
Convention on the Continental Shelf

OIL TERMINAL DUES ACT 1965

An Act to provide for the levying and payment of terminal dues on any ship evacuating oil at any terminal in any port in Nigeria; and in respect of any services provided at those ports, and for all other matters connected therewith.

[1969 No. 9]

Commencement [1st January, 1965]

1. Levy of terminal dues, etc.
(1) As from the date of commencement of this Act, terminal dues may be levied, subject to the provisions of this Act and the Ports Act, on any ship evacuating oil at any oil terminal and in respect of any services or facilities provided under this Act.

[Cap. N126]

(2) The following persons shall be liable to pay any terminal dues levied pursuant to subsection (1) of this section, that is —
(a) the master or owner of the ship;
(b) every consignor or agent who shall have paid or made himself liable to pay any dues on account of such ship, but, when any terminal dues are paid by any person who is not the master or owner of the ship, that person may retain, out of monies in his hands received on account of such ship or her owner, the amount of the dues paid by him together with reasonable expenses incurred by reason of such payment or liability.

(3) The master of any ship arriving in, or applying for the clearance of a ship outwards from an oil terminal shall produce to the Nigerian Ports Authority —
(a) the ship's register and the ship's papers;
(b) a list containing the name of the consignee of the oil intended to be evacuated; and
(c) such other particulars as the Authority may require, including the kind and quantity of oil to be
evacuated, and the particulars required in the foregoing provisions of this subsection shall be
delivered to such officer of the Authority and on such forms as may be prescribed.

(4) The Authority may either alone or with any other person enter into any ship evacuating oil in order to
ascertain the dues payable in respect of the ship and may for that purpose determine the quantity of the
oil in respect of which terminal dues are to be paid and may, if necessary, detain such ship until the dues
have been ascertained or the quantity of the oil otherwise determined.

(5) Where the quantity of oil determined in accordance with subsection (4) of this section is more than
that shown by the particulars delivered in accordance with subsection (3) of this section, the expenses
incurred in determining the amount of oil shall be paid to the Authority by the master of the ship, and
shall be recoverable in the same manner as dues leviable under this section.

(6) Where the master of any ship in respect of which any terminal dues are payable refuses or neglects
to pay such dues on demand, the provisions of sections 75 to 77 of the Nigerian Ports Authority Act
(which provide the remedies for the recovery of dues) or such provisions as may be prescribed shall apply
in relation to the recovery of terminal dues payable under this section as they apply in relation to the
recovery of dues and rates payable under Part XI of that Act.

2. Provision of navigational services and facilities

(1) It shall be the duty of the Authority to provide such navigational services or extend such facilities for the
purposes of this Act as may be necessary or expedient to serve the public interest in accordance with the
requirements of the provisions of the Convention.

(2) Such navigational services may include the installation of position-fixing system, navigational aids, and
the setting up of sea lanes for the purposes or removing any navigational hazards.

(3) In this subsection —
(a) “position-fixing system” means such system of hyperbolic navigation which operates automatically
and continuously, and which depends on time signals sent out from a series, that is to say, chains of
master and slave stations, for the purpose of enabling any mariner to obtain the position of his ship,
and of aiding navigation, with a very high degree of accuracy; and
(b) “navigational aids” include objects on shore or afloat or instruments, such as light-houses, lightships,
buoys, beacons, radio/radar and radar equipment, which assist in the safe passage or ships or enable
ships to ascertain their positions at sea in relation to these aids.

(4) The facilities which the Authority may provide may include berthing, towing, mooring, or moving of ships in
or around any oil terminal for the purposes of evacuating oil from the terminal including the establishment of
safety zones, and the Authority may in respect of such services levy ships’ dues on such ships.

(5) Sections 7 and 8 of the Nigerian Ports Authority Acts (which relate to the duties of the Authority) shall apply,
and shall be construed with such modifications as may be necessary, and notwithstanding the generality
of the of the foregoing, the references in those provisions to “navigational services” and ”port facilities” are
references to the services and facilities prescribed under the foregoing provisions of this section.

3. Application of certain other provisions of the Ports Act

Subject to the provisions of this Act, the provisions of the Ports Act specified in column 1 of the First
Schedule of this Act shall apply in relation to any oil terminal and to the extent mentioned in column 3
of that Schedule as they apply in relation to a port or any approaches thereto, and as if references in that
Act to “a port or any approaches thereto” were references to an “oil terminal or any area within which the
terminal is situated”.

4. Appointment or designation of officers, etc., of the authority

The Authority may for the purposes of this Act appoint or designate any officer, servant or agent of the
Authority for the purposes of discharging any of its functions under this Act.

5. Power to apply or extend regulations made under the Nigerian Ports Authority Act

The Minister may by regulations extend any regulations made by the Minister or by the Authority under the
Nigerian Ports Authority Act for the maintenance, control and management of anything to which the Act
relates, and in particular, apply section 71 of the Nigerian Ports Authority Act (which relates to the power of the authority to make regulations for the levy of dues and rates) or extend any regulations made pursuant to that section for the purposes of this Act, and any regulations as so extended or applied shall be of the same effect as if made under this Act.

[Cap. N126]

6. **Discharge of oil at an oil terminal**

(1) So much of section 3 of the Oil in Navigable Waters Act as relate to the discharge of oil or mixture containing oil into the territorial waters of Nigeria from any vessel or apparatus used for transferring oil to any vessel shall, subject to the following provisions of this section, apply in relation to the area within which any oil terminal is situated, if situated outside the limits of the territorial waters, as they apply in relation to the whole of the sea within the seaward limits of the territorial waters.

[Cap. O6]

(2) If any oil or mixture containing oil is discharged into any part of the sea referred to in subsection (1) of this section—

(a) from a pipe-line or any apparatus used for the purposes of transferring oil from or to a vessel;
(b) from a vessel; or
(c) as a result of any operation for evacuating oil, the owner of the pipe-line or the owner of the vessel or the person in charge of the operation, as the case may be, shall be guilty of an offence under section 3 of the Oil in Navigable Waters Act (as applied by this section).

(3) Any person found guilty of an offence as aforesaid shall on conviction be liable to the same penalty as provided by section 6 of the Oil in Navigable Waters Act, and the special defences prescribed under section 4 thereof shall apply in relation to such offences as they apply for the purposes of that Act.

(4) The operation of the foregoing provisions of this section is without prejudice to the operation of any other provision of the Oil in Navigable Waters Act in so far as it applies in relation to any area within which there is situated any oil terminal, and effect shall be given to the provisions of that Act, accordingly.

(5) In this section, “oil” has the meaning given in section 20 of the Oil in Navigable Waters Act.

[Cap. O6]

7. **Restriction on installation of oil terminals**

(1) As from the date of publication of this Act, an oil terminal —

(a) shall not be installed by any person, except —

(i) by or under the authority of a licence or lease granted under the Minerals and Mining Act; and

(ii) subject to the express approval in writing of the Minister for Petroleum Resources, and any subsequent operation of such terminal by any person shall be in compliance with the requirements of this Act and such conditions as may be prescribed;

(b) shall —

(i) if in operation on the date of publication of this Act, and

(ii) unless such person complies with such conditions as may be prescribed for the payment of dues and fees within such period (or any extension of that period) as the Minister may in his discretion determine, cease to be operated by that person until the said conditions have been duly complied with.

(2) For the purposes of this Act —

(a) every oil terminal; and

(b) the area within which the terminal is situated, shall be established geographically with precise coordinates by an order published in the Federal Gazette by the Minister for Petroleum Resources.

(3) In this section —

(a) “oil terminal” means an oil-loading terminal, pumping or booster station, or other installation (or structure associated with a terminal, including its storage facilities), other than a terminal situated within “a port or any approaches thereto” within the meaning of the Nigerian Ports Authority Act;

(b) the reference to the area within which the terminal is situated includes a reference to —

(i) the area of the territorial waters;

(ii) the area of the superjacent waters of the continental shelf, and the space above or below an area which the oil terminal is situated (including the sea-bed and sub-soil of submarine area) shall be deemed to be part of the area, and sub-paragraphs (i) and (ii) of this paragraph shall be so construed.
(4) Any person who contravenes subsection (1) of this section shall be guilty of an offence and shall, on conviction, be liable to a fine of four thousand naira for each day on which the offence occurs.

8. Application of laws

(1) Subject to this Act, the provisions of the laws in force in Nigeria (apart from those specifically applied or extended by or under this Act) and as in force from time to time, and the provisions of any instrument made under any of those laws shall apply in the area of the sea within which the oil terminal is situated.

(2) The provisions referred to in subsection (1) of this section apply to and in relation to all acts, matters, circumstances and things touching, concerning, or connected with the oil terminal or arising from its operations or connected with the storage or pumping of oil from such terminal, and not otherwise, and so apply as if that area were part of the Federal Republic of Nigeria.

(3) This section does not—
(a) extend to the provisions of any law or instrument—
(i) in so far as they are incapable of application in the area of the sea within which such terminal is situated;
(ii) in so far as they are expressed, or by necessary implication, not to extend to apply in that area;
(b) affect the operation that any law has apart from this section;
(c) apply to the provisions of any law or instrument that is applicable only in a State and within the authority of the government of the State.

(4) For the avoidance of doubt, sections 2 and 3 of the Territorial Waters Act (which relate to jurisdiction and restriction on trial offences committed within the territorial waters of Nigeria) apply, in relation to offences committed under this Act (or any other enactment or instrument applied or extended by or under this Act, whether or not such offences are committed within the territorial waters) as they apply in respect of trial of offences committed within the territorial waters.

(5) Any provision applied or extended by or under this Act shall have effect with any necessary modifications and omissions.

9. Application of this Act

This Act applies to all natural persons, whether Nigerian citizens or not, and whether resident in Nigerian or not, and to all corporations, whether incorporated or carrying on business in Nigeria or not.

10. Regulations

Without prejudice to any other power to make regulations conferred by this Act and subject to the provisions of this Act, provisions may be made by regulations by the Minister—
(a) for prescribing anything to be prescribed under this Act;
(b) for the purposes of doing anything that is required to be done under this Act; and
(c) for providing that any provisions referred to in subsection (1) or excluded by subsection (3) of section 8 of this Act that are specified in the regulations do not apply by reasons of this section or apply with prescribed modifications only.

11. Interpretation

In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is—

“Authority” means the Nigerian Ports Authority as constituted under section 1 of the Nigerian Ports Authority Act;

“Convention” means the Convention entitled “Convention on the Continental Shelf” signed at Geneva on the 29th April, 1958, being the Convention, of which Nigeria is a party, and a copy of which in the English language is set out in the Second Schedule to this Act;

“master” means the meaning given in section 127 of the Nigerian Ports Authority Act;

“Minister” means the Minister of Transport;

“oil” means crude oil of any description, liquefied petroleum gas or liquefied natural gas;

“oil terminal” has the meaning given in section 7 of this Act, and any other reference in this Act to the area within which an oil terminal is situated shall be construed as prescribed in that section;

“continental shelf” means the continental shelf, within the meaning of the Convention, adjacent to the coast.
of the Federal Republic of Nigeria;

“ship” has the meaning given in section 127 of the Nigerian Ports Authority Act;  
[Cap. N126]

“terminal dues” means such as may be levied under this Act on any ship evacuating oil at any oil terminal;

“territorial waters” means the territorial waters of Nigeria within the meaning of the Territorial Waters Act.  
[Cap. T5]

12. Short title etc

This Act may be cited as the Oil Terminal Dues Act.

SCHEDULE

FIRST SCHEDULE  
[Section 3]

Provision of the Nigerian Ports Authority Act Applied

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SECOND SCHEDULE  
[Section 11]

Convention on the Continental Shelf

The States Parties to this Convention have agreed as follows:

ARTICLE 1

For the purpose of these articles, the term “continental shelf” is used as referring (a) to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas; (b) to the seabed and subsoil of similar submarine areas adjacent to the coast of islands.

ARTICLE 2

1. The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.

2. The rights referred to in paragraph 1 of this article are exclusive in the sense that if the coastal State does not explore the continental shelf or exploit its natural resources, no one may undertake these activities, or make a claim to the continental shelf, without the express consent of the coastal State.

3. The rights of the coastal State over the continental shelf do not depend on occupation, effective or notional, or on any express proclamation.

4. The natural resources referred to in these articles consist of the mineral and other non-living resources of the
seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.

ARTICLE 3
The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters as high seas, or that of the airspace above those waters.

ARTICLE 4
Subject to its right to take reasonable measures for the exploration of the continental shelf and the exploitation of its natural resources, the coastal State may not impede the laying or maintenance of submarine cables or pipelines on the continental shelf.

ARTICLE 5
1. The exploitation of the continental shelf and the exploitation of its natural resources must not result in any unjustifiable interference with navigation, fishing or the conservation of the living resources of the sea, nor result in any interference with fundamental oceanographic or other scientific research carried out with the intention of open publication.

2. Subject to the provisions of paragraphs 1 and 6 of this article, the coastal State is entitled to construct and maintain or operate on the continental shelf installations and other devices necessary for its exploitation and the exploitation of natural resources and to establish safety zones around such installations and devices and to take in those zones measures necessary for their protection.

3. The safety zones referred to in paragraph 2 of this article may extend to a distance of 500 metres around the installations and other devices which have been erected, measured from each point of their route edge. Ships of all nationalities must respect these safety zones.

4. Such installations and devices, though under the jurisdiction of the coastal State, do not possess the status of islands. They have no territorial sea of their own, and their presence does not affect the delimitation of the territorial sea of the coastal State.

5. Due notice must be given of the construction of any such installations, and permanent means for giving warning of their presence must be entirely removed.

6. Neither the installations or devices, nor the safety zones around them, may be established where interference may be caused to the use of recognised sea lanes essential to international navigation.

7. The coastal State is obliged to undertake, in the safety zones, all appropriate measures for the protection of the living resources of the sea from harmful agents.

8. The consent of the coastal State shall be obtained in respect of any research concerning the continental shelf and undertaken there. Nevertheless the coastal State shall not normally withhold its consent if the request is submitted by a qualified institution with a view to purely scientific research into the physical or biological characteristics of the continental shelf, subject to the proviso that the coastal State shall have the right, if it so desires, to participate or to be represented in the research, and that in any event the results shall be published.

ARTICLE 6
1. Where the same continental shelf is adjacent to the territories of two or more States whose coasts are opposite each other, the boundary of the continental shelf appertaining to such States shall be determined by agreement between them. In the absence of agreement, and unless another boundary lines is justified by special circumstances, the boundary is the median line, every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

2. Where the same continental shelf is adjacent to the territories of two adjacent States, the boundary of the continental shelf shall be determined by agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, the boundary shall be determined by application of the principle of equidistance from the nearest points of the baselines from which the breadth of the territorial sea of each State is measured.

3. In delimiting the boundaries of the continental shelf, any lines which are drawn in accordance with the principles set out in paragraphs 1 and 2 of this article should be defined with reference to charts and geographical features as they exist at a particular date, and reference should be made to fixed permanent identifiable points on the land.
ARTICLE 7
The provisions of these articles shall not prejudice the right of the coastal State to exploit the subsoil by means of tunnelling irrespective of the depth of water above the subsoil.

ARTICLE 8
This Convention shall, until 31st October 1958, be open for signature by all States Members of the United Nations or of any of the specialised agencies, and by any other State invited by the General Assembly of the United Nations to become a party to the Convention.

ARTICLE 9
This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

ARTICLE 10
This Convention shall be open for accession by any States belonging to any of the categories mentioned in Article 8. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

ARTICLE 11
1. This Convention shall come into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.
2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

ARTICLE 12
1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1 to 3 inclusive.
2. Any Contracting State making a reservation in accordance with the preceding paragraph may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

ARTICLE 13
1. After the expiration of a period of five years from the date on which this Convention shall enter into force, a request for the revision of this Convention may be made at any time by any Contracting Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such request.

ARTICLE 14
The Secretary-General of the United Nations shall inform all State Members of the United Nations and the other States referred to in article 8—
(a) of signatures to this Convention and of the deposit of instruments of ratification or accession, in accordance with articles 8, 9 and 10;
(b) of the date on which this Convention will come into force, in accordance with article 11;
(c) of requests for revisions in accordance with article 13;
(d) of reservations to this Convention, in accordance with article 12.

ARTICLE 15
The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States referred to in article 8.

IN WITNESS WHEREOF the undersigned Plenipotentiaries, being duly authorised thereto by their respective Governments, have signed this Convention.

DONE at Geneva, this twenty-ninth day of April, one thousand nine hundred and fifty-eight.

(Here follow the signatures on behalf of the parties to the Agreement, including Nigeria.)
An Act to authorise the Nigerian National Petroleum Corporation to borrow money in any currency for the carrying out of the Oso Condensate Project and for other matters connected therewith.

Commencement [25th May 1990]

1. **Power to Borrow in Any Currency, etc.**
   (1) Notwithstanding any provision of any enactment, the Nigerian National Petroleum Corporation (hereafter in this Act referred to as "the Corporation") shall be empowered, subject to the provisions of this Act, to borrow money in any currency and on such terms and conditions as the Board of the corporation may deem necessary to carry out the OSO Condensate Project (hereafter in this Act referred to as "the Project").

   (2) In exercise of the power conferred on the Corporation pursuant to subsection (1) of this section, the Corporation may borrow any amount of whatever.

   (3) For the purpose of giving effect to the provisions of this act, the Corporation may sue and be sued in its Corporate name.

2. **Power to Give Security, etc.**
   (1) The Corporation may, for the purpose of receiving any loan for the carrying into effect of the Project, pledge any of the money, revenue, assets or may create escrow accounts outside Nigeria from which shall be repaid capital and interest on any amount of money received by the Corporation for the Project.

   (2) Notwithstanding any provision of any enactment, any obligation imposed upon the Corporation, the receipt of any loan for the Project or in the exercise of the powers conferred upon it by section 1 (1) and subsection (1) of this section shall be enforceable by ordinary legal process, execution, attachment or any other process in the nature of attachment.

   (3) The provisions of subsection (1) of this section shall only apply to accounts and assets set aside by the Corporation for the Project and shall not apply to any other account or asset of the Corporation.

3. **Power to Enter into Agreement**
   The Corporation may enter into any arrangement or agreement with any person, (corporate or unincorporate) or take any other action, as it may deem necessary and appropriate for the purpose of the Project or giving effect to the provisions of this Act.

4. **Interpretation**
   (1) In this Act, unless the context otherwise requires —

   **the Corporation** means the Nigerian National Petroleum Corporation established by the Nigeria National Petroleum Corporation Act;

   **the project** means the Oso Condensate Project which constitutes the development of Oso field located in the area of Oil Mining Lease 70 in Offshore Eastern Nigeria, jointly held in undivided share by the Corporation and Mobil Producing (Nigeria) Ltd.

5. **Short Title**
   This Act may be cited as the OSO Condensate Project Act.
An Act to create offence of sabotage in respect of production and distribution petroleum products.

[1975 No. 35]

Commencement    [7th November, 1975]

1. Offence of Sabotage
   
   (1) Any person who does any of the following things, that is to say —
   
   (a) wilfully does anything with intent to obstruct or prevent the production or distribution of petroleum products in any part of Nigeria; or
   
   (b) wilfully does anything with intent to obstruct or prevent the procurement of petroleum products for distribution in any part of Nigeria; or
   
   (c) wilfully does anything in respect of any vehicle or any public highway with intent to obstruct or prevent the use of that vehicle or that public highway for the distribution of petroleum products, shall, if by doing that thing he, to any significant extent, causes or contributes to any interruption in the production of distribution of petroleum products in any part of Nigeria, be guilty of the offence of sabotage under this Act.

   (2) Any person who —
   
   (a) aids another person; or
   
   (b) incites, counsels or procures any other person, to do any of the things specified in subsection (1) of this section shall, whether or not that other person actually does the thing in question, be guilty of the offence of sabotage under this Act.

2. Penalty for Offence of Sabotage

Any person, who commits an offence of sabotage under section 1 of this Act, shall be liable on conviction to be sentenced either to death or to imprisonment for a term not exceeding twenty-one years.

3. Jurisdiction

The Federal High Court shall have exclusive jurisdiction to try any offence committed under this Act.

4. Interpretation

In this Act, unless the context otherwise requires —

   “Petroleum products” includes motor spirits, gas oil, diesel oil, automotive gas oil, fuel oil, aviation fuel, kerosene, liquefied petroleum gases and any lubricating oil or greases or other lubricant;

   “Public highway” means any road to which members of the public have access;

   “Vehicle” means anything constructed or adapted for use in the transportation of petroleum products by land, sea or air.

5. Short Title

This Act may be cited as the Petroleum Production and Distribution (Anti-Sabotage) Act
PETROLEUM EQUALISATION FUND (MANAGEMENT BOARD, ETC.) ACT

ARRANGEMENT OF SECTIONS

SECTION
1. Establishment of the Fund.
2. Utilisation of the Fund.
3. Establishment, etc., of Petroleum Equalisation Fund Management Board
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6. Prescribed dates for payment and penalty for non-payment.
7. Accounts and audit.
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SCHEDULE
Composition, etc., of the Petroleum Equalisation Fund Management Board

PETROLEUM EQUALISATION FUND (MANAGEMENT BOARD, ETC.) ACT

An Act to establish the Petroleum Equalisation Fund which is to be applied for the reimbursement of petroleum marketing companies for any losses suffered by them arising from the sale of petroleum products at uniform prices throughout Nigeria and a Management Board to manage the affairs of the Fund.
[1975 No. 9]

Commencement [15th October, 1975]

1. Establishment of the Fund
There is hereby established a Fund to be known as the Petroleum Equalisation Fund (in this Act referred to as “The Fund”) into which shall be paid —
(a) any net surplus revenue recovered from oil marketing companies pursuant to this Act; and
(b) such sums as may be provided for that purpose by the Federal Government.

2. Utilisation of the Fund
The Fund shall be utilised for the reimbursement of oil marketing companies for any loss sustained by them solely and exclusively as a result of the sale by them of petroleum products at uniform prices throughout Nigeria being prices fixed by the Minister pursuant to section 6 (1) of the Petroleum Act.
[Cap. P10]

3. Establishment, etc., of Petroleum Fund Management Board
(1) There shall be, for the purpose of administering the Fund in accordance with the provisions of this Act, a body to be known as the Petroleum Equalisation Fund Management Board (in this Act referred to as “the Board”)

(2) The Board shall be a body corporate with perpetual succession and a common seal.

(3) The Board may —
(a) sue and be sued in its corporate name;
(b) hold and acquire property whether movable or immovable.

(4) The provisions of the Schedule to this Act shall have effect with respect to the composition of the Board and the other matters contained therein.

[Schedule]
4. Secretary
(1) The Board shall, from time to time, appoint a fit person to be called the Secretary of the Petroleum Equalisation Fund Management Board.

(2) The Secretary shall be the chief administrative officer of the Board and, subject to the directions of the Board, shall be responsible for —
(a) determining at such intervals as the Board may direct, the net surplus revenue recoverable from any oil marketing company and accruing to that company from the sale by it of petroleum products as such uniform prices as may be fixed by the Minister pursuant to section 6 (1) of the Petroleum Act;

(b) determining the amount of reimbursement due to any oil marketing company which has suffered a loss as a result of the operation of the enactment aforesaid;

(c) the payment of all disbursement authorised under or by virtue of this Act;

(d) accounting for all monies collected, paid or otherwise expended under this Act;

(e) carrying out such other duties as may from time to time be specified by the Board.

(3) The Board may also, from time to time, appoint as employees of the Board such number of persons as may be necessary for the administration of this Act, who shall be subject to the general control of the Secretary and who shall perform such duties as the Secretary may direct.

5. Calculation of Surplus Revenue Recoverable
The net surplus revenue recoverable from an oil marketing company under this Act shall be calculated by reference to the volume of the affected products sold on zonal basis and the amount by which uniform prices at which the products were sold exceeded, or were less than, the prices of those products prevailing immediately before the fixing of the uniform prices of the products.

6. Prescribed Date for Payments and Penalty For Non-Payment
(1) The Board shall from time to time, by notice served by registered post on the oil marketing company concerned, specify the date on which any net surplus revenue due from that oil marketing company shall be paid to Board.

(2) If any sum is not paid within twenty-one days of the specified date, a sum equal to ten per centum of the amount unpaid shall be added for each month or part of a month after the date on which payment should have been made.

(3) The Board may, if it thinks fit, remit in whole or in part any penalty imposed under this section.

7. Accounts and Audit
(1) The Board shall keep proper accounts and proper records in relations thereto and shall prepare in respect of each financial year a statement of accounts in such form as the Minister may direct.

(2) The Board shall not later than six months from the end of the financial year to which the accounts relate cause the accounts to be audited by auditors appointed by the Board, with the approval of the Minister.

(3) The auditors shall on the completion of the audit of the accounts of each financial year prepare and submit to the Board a report setting out their observations and recommendations on all aspects of the accounts of the Board; and the Board shall forward a copy of the report to the Minister.

8. Proceedings to recover unpaid net surplus revenue
(1) Notwithstanding any other provision of this Act, any net surplus revenue payable by an oil marketing company pursuant to this Act shall be recoverable by action as a debt owing to the Board at any time within six years from the date when payment of the sum became due.

(2) Any action for the recovery of any sum under this section may be instituted on behalf of the Board by the Secretary or by any employee of the Board and where the action is instituted in a magistrate's court any person authorised by this subsection may appear and conduct the case.

(3) For the purposes of this section, the expression “net surplus revenue” includes any penalty payable or imposed for non-payment or for late payment, as the case may be.

9. Certificate As Evidence
A copy of an entry in the accounts of the Board or other extract from the records of the Board shall, when
certified by the Secretary, be received in all courts as prime facie evidence of the truth of the contents thereof and, as the case may be, of the debt to the Board of any oil marketing company.

10. Returns
The Secretary may, with the approval of the Board, require any oil marketing company to furnish such returns and keep such records and produce them for examination by, or on behalf of the Secretary as appear to the Secretary to be necessary for the carrying out of his functions under this Act.

11. Offences and Penalty 1989 No. 32
(1) Any person who fails to comply with any requirement made by the Secretary under section 10 of this Act, shall be guilty of an offence and liable on conviction to a fine of N50,000.

(2) Any person who —
(a) knowingly or recklessly furnishes in pursuance of any requirement made under section 10 of this Act, any return or other information which is false in any material particular; or
(b) wilfully makes a false entry in any record required to be produced under that section with intent to deceive, or makes use of any such entry which he knows to be false, shall be guilty of an offence and liable on conviction to a fine of N50,000 or to imprisonment for a term of five years.

(3) Where an offence under this Act by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate (or any person purporting to act in any such capacity) he, as well as the body corporate shall be deemed to be guilty of the offence and may be proceeded against and punished accordingly.

12. Regulations
The Minister may, with the approval of the President, make regulations generally for the purposes of this Act.

13. Interpretation
In this Act, unless the context otherwise requires —
“Board” means the Petroleum Equalisation Fund Management Board established by section 3 of this Act;
“Chairman” means the Chairman of the Board;
“Fund” means the Petroleum Equalisation Fund established by section 1 of this Act;
“Minister” means the Minister of Petroleum Resources;
“Petroleum products” includes motor spirits, gas oil, diesel oil, automotive gas oil, fuel oil, aviation fuel, kerosene, liquefied petroleum gases and any lubricating oil or grease or other lubricant;
“Secretary” means the Secretary of the Board appointed pursuant to section 4 of this Act.

14. Short Title
This Act may be cited as the Petroleum Equalisation Fund (Management Board, etc.) Act.

SCHEDULE
[Section 3(4).]

Composition, etc., of the Petroleum Equalisation Fund Management Board

1. The Board shall consist of the following members, that is to say —
(a) a representative of the Ministry of Petroleum Resources, who shall be the Chairman;
(b) a representative of the Federal Ministry of Finance.
(c) a representative of the Federal Ministry of Commerce; and
(d) three representatives of the petroleum marketing companies who shall be appointed by the Minister.

2. If, for any reason, the Chairman is unable to be present at any meeting of the Board, he shall nominate another person from his Ministry to act as Chairman for the purpose of that meeting and the person so nominated shall have the same powers as the chairman.
3. The Minister shall convene the first meeting of the Board and subject thereto, the Board shall meet on such other occasions as it may deem necessary.

4. A member of the Board appointed pursuant to sub-paragraph (d) of paragraph 1 of this Schedule—
   (a) shall hold office for two years and shall be eligible for reappointment;
   (b) may at any time, by notice addressed to the Minister resign his office;
   (c) may be removed from office by the Minister if the Minister is of the opinion that the member is for any reason unfit to continue in office or is incapable of performing his duties;
   (d) shall be paid out of the monies at the disposal of the Board such remuneration and allowances as the Minister with the approval of the President may determine.

5. (1) Subject to this Act and to section 27 of the Interpretation Act (which provides for decisions of a statutory body to be taken by a majority of its members and for the Chairman to have a second or casting vote) the Board may make standing orders regulating its proceedings.

   [Cap. 123]

   (2) The quorum for any meeting of the Board shall be four.
   (3) The validity of any proceedings of the Board shall not be affected —
       (a) by any vacancy in the membership of the Board;
       (b) by any defect in the appointment of a member; or
       (c) by reason of the fact that any person not entitled to do so took part in the proceedings.

6. Any contract or instrument which if entered into or executed by a person not being a body corporate would not be required to be under seal may be entered into or executed on behalf of the Board by any person generally or specifically authorised by it for that purpose.

7. The fixing of the seal of the Board shall be authenticated by the signature of the Chairman (or some other member authorised by the Board to act in that behalf) and the signature of the Secretary.

8. Any document purporting to be duly executed under the seal or on behalf of the Board shall be received in evidence and presumed to be so executed unless the contrary is proved.

9. Any member of the Board who has a personal interest in any matter to be considered by the Board or in any contract of arrangement entered into or proposed to be entered into by the Board shall forthwith disclose his interest to the Board and shall not vote on any question relating to such matter, contract or arrangement.
PART I
Establishment and Governing Board of the Petroleum Products Pricing Regulatory Agency

SECTION
2. Establishment of Governing Board of the Agency.
3. Tenure of office, etc.
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SCHEDULES

FIRST SCHEDULE
Supplementary Provision relating to the Board, etc.

SECOND SCHEDULE
Programmes for Implementation
PETROLEUM PRODUCTS PRICING REGULATORY AGENCY
(ESTABLISHMENT, ETC.) ACT (2003)

An Act To Establish The Petroleum Products Pricing Regulatory Agency; And For Related Matters.
[2003 No. 8]

Commencement  [27th May, 2003]

PART I
Establishment and Governing Board of the Petroleum Products Pricing Regulatory Agency

1. Establishment of Petroleum Products Pricing Regulatory Agency
   (1) There is established an agency to be known as the Petroleum Products Pricing Regulatory Agency (in this Act referred to as “the Agency”).
   (2) The Agency —
      (a) Shall be a body corporate with perpetual succession and a common seal; and
      (b) may sue and be sued in its corporate name.
   (3) The Agency shall be located in the Federal Capital Territory, Abuja and shall not be subject to the direction, control or supervision of any other authority in the performance of its functions under this Act other than the President.

2. Establishment of Governing Board of the Agency
   (1) There is established for Agency a Governing Board which shall be responsible for the running of the Affairs of the Agency.
   (2) The Agency shall consist of —
      (a) chairman;
      (b) one representative each of the following
         (i) the Nigerian Chamber of Commerce, Industry, Mining and Agriculture;
         (ii) the Manufacturers Association of Nigeria;
         (iii) the Nigeria Labour Congress;
         (iv) the Major Oil Marketers;
         (iv) the Independent Oil Marketers;
         (vi) the Petroleum and Natural Gas Senior Staff Association;
         (vii) the Transport Owners;
         (viii) the Nigerian Employers Consultative Association;
         (ix) the Nigerian Media (on rotation in every year between the Guild of Editors), the Nigeria Union of Journalists and the Newspapers Proprietors Association of Nigeria;
         (x) the Federal Office of Statistics;
         (xi) the National Union of Road Transport Workers;
         (xii) the Ministry of Petroleum Resources;
         (xiii) the Federal Ministry of Employment, Labour and Productivity;
         (xiv) the Federal Ministry of Transport;
         (xv) the Federal Ministry of Finance;
         (xvi) the Central Bank of Nigeria;
         (xvii) the Presidency;
         (xviii) the National Manpower Board;
         (xix) the Nigerian National Petroleum Corporation;
         (xx) the Nigerian Institute of Management;
         (xxi) the National Union of Petroleum and Natural Gas Workers (NUPENG);
         (xxii) the Trade Union Congress (T.U.C.);
         (xxiii) the Depot and Petroleum Products’ Marketers Association of Nigeria (DAPMAN);
         (xxiv) Petroleum Equalization Fund (PEF); and
         (xxv) the Executive Secretary.
   (3) The Chairman and other members of the Board shall—
      (a) be persons of proven integrity who possess the requisite experience;
      (b) in the case of persons specified in paragraph (b)(i) to (xii) of subsection (1) of this section, be nominated by the bodies they represent; and
(c) be appointed by the President of the Federal Republic of Nigeria.

(4) The supplementary provisions set out in the First Schedule to this Act shall have effect with respect to the proceedings of the Board and the other matters contained therein.

[First Schedule]

3. **Tenure of office, etc.**

   The Chairman and other members of the Board, other than ex-officio members—
   (a) shall hold office on such terms and conditions as may be specified in their letters of appointment; and
   (b) may be reappointed for one further term and no more.

4. **Removal from offices, etc.**

   (1) Notwithstanding the provisions of section 3 of this Act, a member may at any time be removed from office by the President for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct.

   (2) A member of the Board may resign his appointment by a notice in writing under his hand, addressed to the President and that member shall, on the date of the receipt of the notice by the President cease to be a member of the Board.

5. **Emoluments, etc.**

   A member of the Board shall be paid such emoluments, allowances and benefits as the president may, from time to time, approve.

6. **Disclosure of interest**

   (1) A member of the Board who is directly or indirectly interested in any matter being deliberated on by the Board or is interested in any contract made or proposed to be made by the Agency shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.

   (2) A disclosure under subsection (1) of this section shall be recorded in the minutes of meetings of the Board and the member concerned shall —
   (a) not, after the disclosure, take part in any deliberation or decision of the Board; and
   (b) be excluded for the purpose of constituting a quorum of any meeting of the Board for any deliberation or decision, with regard to the subject matter in respect of which his interest is so disclosed.

**PART II**

*Functions and Powers of the Agency*

7. **Functions of the Agency**

   The functions of the Agency are to —
   (a) determine, the pricing policy of petroleum products;
   (b) regulate the supply and distribution of petroleum products;
   (c) establish an information and data bank through liaison with all relevant agencies to facilitate the making of informed and realistic decisions on pricing policies;
   (d) moderate volatility in petroleum products prices, while ensuring reasonable returns to operators;
   (e) oversee the implementation of the relevant recommendations and programmes of the Federal Government as contained in the White Paper on the report of the Special Committee on the review of Petroleum Products Supply and Distribution specified in the Second Schedule to this Act as they relate to its functions, taking cognisance of the phasing of specific proposals;
   (f) establish parameters and codes of conduct for all operators in the downstream petroleum sector;
   (g) maintain constant surveillance over all key indices relevant to pricing policy and periodically approve benchmark prices for all petroleum products;
   (h) identify macro-economic factors with relationship to prices of petroleum products and advice the Federal Government on appropriate strategies for dealing with them;
   (i) establish firm linkages with key segments of the Nigerian society, and ensure that its decisions enjoy the widest possible understanding and support;
   (j) prevent of collusion and restrictive trade practices harmful in the sector;
   (k) exercise mediatory role as necessary for all stakeholders in the sector;
   (l) other functions, which the National Assembly may confer on the Agency from time to time; and
   (m) carry out such other activities as appear to it necessary or expedient for the full and efficient discharge of its functions under this Act.

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PART III
Staff of the Agency

8. **Executive Secretary of the Agency**
   (1) There shall be, for the Agency, an Executive Secretary who shall be appointed by the President.
   (2) The Executive Secretary shall be—
      (a) a person of proven integrity and with extensive relevant experience;
      (b) the chief executive and accounting officer of the Agency;
      (c) responsible for the execution of the policy and the day-to-day administration of the affairs of the Agency.
   (3) The Executive Secretary shall hold office—
      (a) for a term of 4 years in the first instance and may be re-appointed for a further term of 4 years and no more; and
      (b) on such terms and conditions as may be specified in his letter of appointment.

9. **Other employees of the Agency**
   (1) The Board shall appoint, for the Agency, such officers and other employees as it may, from time to time, deem necessary for the purposes of the Agency.
   (2) The terms and conditions of service (including remuneration, allowances, benefits and pensions) of officers and employees of the Agency shall be as determined by the Board.

PART IV
Financial Provisions

10. **Fund of the Agency**
    The Agency shall establish and maintain a fund into which shall be paid and credited—
    (a) the take-off grant from the Federal Government;
    (b) annual subvention from the Federal Government;
    (c) loans and grants-in-aid from national, bilateral and multilateral agencies;
    (d) rents from the Agency's property, fees and other internally generated revenue arising from the services provided by the Agency; and
    (e) all other sums accruing to the Agency, from time to time.

11. **Expenditure of the Agency**
    The Agency may, from time to time, apply the proceeds of the Fund to—
    (a) the cost of administration of the Agency;
    (b) the paying of the emoluments, allowances and benefits of members of the Board and for reimbursing members of the Board or of any committee set up by the Board for such expenses as may be expressly authorised by the Board;
    (c) the payment of salaries, fees or other remuneration or allowances, gratuities and pensions, and other benefits payable to the officers or other employees of the Agency, so however that no payment of any kind under this paragraph (except such as may be expressly authorised by the Board) shall be made to any person who is in receipt of emoluments from the Federal or State Governments;
    (d) the development and maintenance of any property vested in or owned by the Agency; and
    (e) any matter in connection with all or any of its functions under this Act.

12. **Annual estimates and accounts**
    (1) The Agency shall, not later than 30th September in each year, submit to the President an estimate of its expenditure and income (including payments to the Agency) for the next succeeding year.
    (2) The Agency shall keep proper accounts in respect of each year and proper records in relation to those accounts and shall cause its accounts to be audited within six months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General of the Federation.

13. **Annual reports**
    The Agency shall prepare and submit to the Federal Executive Council, through the President, not later than six months after the end of each year, a report in such form as he may direct on the activities of the Agency during the immediate proceeding year, and shall include in such report a copy of the audited accounts of the Agency for that and the auditor's report on the accounts.
14. Power to accept gift
(1) The Agency may accept any gift of land, money or other property on such terms and conditions, if any, as may be specified by the person or organization making the gift.
(2) The Agency shall not accept any gift if the conditions attached by the person or organisation offering the gift are inconsistent with the functions of Agency.

15. Power to borrow
(1) The Agency may, from time to time, borrow by overdraft or otherwise such sums as it may require for the performance of its functions under this Act.
(2) The Agency shall not, without the approval of the President, borrow money which exceeds, at any time, the amount set by the President.
(3) Notwithstanding subsection (1) of this section, where the sum to be borrowed is in foreign currency, the Agency shall not borrow the sum without the prior approval of the President.

16. Investment
The Agency may, subject to the provisions of this Act and the conditions of any trust created in respect of any property, invest all or any of its funds in any security prescribed by the Trustee Investments Act or in such other securities as may, from time to time, be approved by the President.

17. Exemption from tax
(1) The Agency shall be exempted from the payment of income tax on any income accruing from investments made by the Board for the Agency or otherwise.
(2) The provisions of any enactment relating to the taxation of companies or trust funds shall not apply to the Agency or the Board.

PART V
Legal Proceeding

18. Limitation of suits against the Agency, etc.
(1) Subject to the provisions of this Act, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against an officer or employee of the Agency.
(2) Notwithstanding anything contained in any other enactment, no suit against a member of the Board or the Executive Secretary or any other officer or employee of the Agency for any act done in pursuance or execution of this Act or any other enactment or law, or of any public duty or authority in respect of any alleged neglect or default in execution of this Act or any other enactment or law, duty or authority, shall lie or be instituted in any court unless it is commenced-(a) within three months next after the act, neglect or default complained of; or (b) in the case of a continuation of damage or injury, within six months next after the ceasing thereof.
(3) No suit shall be commenced against a member of the Board or the Executive Secretary or any other officer or employee of the Agency before the expiration of a period of one month after written notice of the intention to commence the suit shall have been served on the Agency by the intending plaintiff or his agent.
(4) The notice referred to in subsection (3) of this section shall clearly and explicitly state the cause of action, the particulars of the claim, the name and place of abode of the intending plaintiff and the relief which he claims.

19. Service of documents
A notice, summons or other document required or authorized to be served on the Agency under the provisions of this Act or any other enactment or law may be served by delivering it to the Executive Secretary or by sending it by registered post addressed to the Executive Secretary at the principal office of the Agency.

20 Restriction on execution against Property of the Agency
(1) In any action or suit against the Agency, no execution or attachment of process in the nature thereof shall be issued against the Agency unless not less than three months notice of the intention to execute or attach has been given to the Agency.
(2) Any sum of money which by the judgement of any court has been awarded against the Agency shall subject to any direction given by the court, where notice of appeal against the judgement has been given, be paid from the fund of the Agency.
21. Indemnity of officers
A member of the Board or the Executive Secretary or any officer or employee of the Agency shall be indemnified out of the assets of the Agency against any liability incurred by him in defending any proceeding, whether civil or criminal, if the proceeding is brought against him in his capacity as a member, Executive Secretary, officer or other employee of the Agency.

22. Secrecy
(1) A member of the Board or the Executive Secretary or any other officer or employee of the Agency shall-
(a) not, for his personal gain, make use of any information which has come to his knowledge in the exercise of his powers or is obtained by him in the ordinary course of his duty as a member of the Board or as the Executive Secretary, officer or employee of the Agency;
(b) treat as confidential any information which has come to his knowledge in the exercise of his powers or is obtained by him in the performance of his duties under this Act; and
(c) not disclose any information referred to under paragraph (a) of this subsection, except when required to do so by a court or in such other circumstances as may be prescribed by the Board, from time to time.
(2) Any person who contravenes the provisions of subsection (1) of this section commits an offence and is liable on conviction to a fine of not less than N20,000 or imprisonment for a term not exceeding two years or to both such fine and imprisonment.

23. Directives by the President, etc.
The president may give to the agency or the Executive Secretary such directives of a general nature or relating generally to matters of policy with regard to the exercise of its or his functions as he may consider necessary and the agency or the Executive Secretary shall comply with the directive or cause them to be complied with.

24. Regulations
The agency may with the approval of the President, make such regulations as in its opinion are necessary or expedient for giving full effect to the provisions of this Act and for the due administration of its provisions.

25. Interpretation
In this Act -
“Agency” means the Petroleum Products Pricing Regulatory Agency established under section 1 of this Act;
“Board” means the Governing Board established for the Agency under section 2 of this Act;
“Functions” includes powers;
“President” means the President of the Federal Republic of Nigeria.

26. Short title
This Act may be cited as the Petroleum Products Pricing Regulatory Agency (Establishment, etc.) Act, 2003.

SCHEDULES

FIRST SCHEDULE
[Section 2(4)]

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD, ETC.

Proceedings of the Board

1. Subject to this Act and section 27 of the Interpretation Act (which provides for decision of statutory body to be taken by a majority of its members and for the person presiding at any meeting, when a vote is ordered, to have a second or casting vote), the Board may make standing orders regulating its proceedings or that of any of its committees. [LFN 2004 Cap. 123]
2. At every meeting of the Board, the Chairman shall preside and in his absence the members present at the meeting shall appoint one of their members to preside at the meeting.
3. The quorum at a meeting of the Board shall consist of the Chairman or, in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule, and ten other members or 50 percent of the membership of the Board.
4. The Board shall for the purposes of this Act, meet not less than three times in each year and subject, thereto, the Board shall meet whenever it is summoned by the Chairman, and if required to do so, by notice given
to him by not less than 7 other members, he shall summon a meeting of the Board to be held within 14 days
from the date on which the notice is given.
5. Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him
to the Board for such period as it thinks fit, but a person who is a member by virtue of this sub-paragraph
shall not be entitled to vote at any meeting of the Board, and shall not count towards a quorum.

Committees
6. (1) Subject to its standing orders, the Board may appoint such number of standing and ad hoc committees
as it thinks fit to consider and report on any matter with which the Agency is concerned.
(2) A committee appointed under this paragraph shall —
   (a) consist of such number of persons (not necessarily members of the Board as may be determined by
       the Board), and a person, other than a member of the Board, shall hold office on the committee in
       accordance with the terms of his appointment; and
   (b) be presided over by a member of the Board.
(3) The quorum of any committee set up by the Board shall be as may be determined by the Board.
(4) A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.

Miscellaneous
7. The fixing of the seal of the Agency shall be authenticated by the signature of the Chairman, the Executive
Secretary or any other person generally or specifically authorised by the Board to act for that purpose.
8. Any contract or instrument which, if made by a person not being a body corporate, would not be required to
be under seal may be made or executed on behalf of the Agency by the Executive Secretary or by any other
person generally or specially authorised by the Board to act for that purpose.
9. Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf
of the Agency shall be received in evidence and shall, unless the contrary is proved, be presumed without
further proof to have been so signed or sealed.
10. The validity of any proceedings of the Board or of any of its committees shall not be affected by —
    (a) any vacancy in the membership of the Board, or Committee; or
    (b) any defect in the appointment of a member of the Board or Committee; or
    (c) reason that any person not entitled to do so took part in the proceedings of the Board or Committee.
11. A member of a Committee who has a personal interest in any contract or arrangement entered into or
    proposed to be considered by the Committee shall forthwith disclose his interest to the Committee and shall
    not vote on any question relating to the contract or arrangement.
12. No member of the Board shall be personally liable for any act or omission done or made in good faith while
    engaged on the business of the Agency.

SECOND SCHEDULE
[Section 7 (1) (e)]

PROGRAMMES FOR IMPLEMENTATION

PROGRAMME FOR 4TH QUARTER, 2000 - 1ST QUARTER, 2001

4th Quarter - 2000
The Nigerian National Petroleum Corporation shall immediately repair and replace all the faulty facilities at
the Atlas Cove Complex which hinder the receiving and pumping of products to Mosimi Depot.
The Facilities include, but are not limited to, the satellite Depot facilities, vandalized/ruptured portions of
pipelines.
All coastal supplies of Automotive Gas Oil through company nominated vessels should be stopped immediately.
The Nigerian National Petroleum Corporation shall expand the loading capability of all marine-fed depots
such as Mosimi and Calabar, the expansion shall take cognisance of the need to massively load products on
bridging ex- the depots during the period of pipeline vandalisations.
1st Quarter - 2001
The Nigerian National Petroleum Corporation shall increase the number and undertake a phased rehabilitation
of all associated pipeline equipment, e.g. pumps, generators, loading arms and metres, fire trucks, valves, etc.
The Nigerian National Petroleum Corporation shall immediately embark on public enlightenment campaigns to
educate the public on the dangers of vandalisation of pipelines and other equipment and the campaign shall start
immediately and be sustained in the first six months to prepare the ground for the take-off of the phased reforms.
Federal Government shall establish a Pipelines Management Authority for the management of the pipelines and
depots both in the pre and post-privatisation era, which will charge both private and public users a tariff per
throughput litre of products.

PROGRAMME FOR 2ND QUARTER, 2001 - 3RD QUARTER, 2001

2nd Quarter - 2001
The Nigerian National Petroleum Corporation shall institute a policy of replacement of aged and obsolete
equipment and a programmed and effective preventive maintenance culture.
The Nigerian National Petroleum Corporation shall intensify regular land, sea and aerial surveillance of critical
segments of the pipeline system by a Task Force which shall be established.

3rd Quarter - 2001
The Nigerian National Petroleum Corporation shall institute effective and efficient telemetry systems for
monitoring oil movement operations nationwide.
The Nigerian National Petroleum Corporation shall be restructured with a view to making it efficient and profit-oriented
with the provision of a Board of Directors and a Management with appropriate empowerment at subsidiary levels.

PROGRAMME FOR 2ND QUARTER, 2001-1ST QUARTER, 2002

2nd Quarter - 2001
Federal Government shall have all the Refineries privatised and shall encourage the establishment of private
refineries in any part of the country by any individual, company or association, indigenous or foreign, ensuring
that safety and environment conditions are met.

1st Quarter - 2002
Federal Government shall design, adopt and implement a 10-year Master Plan to develop the petro-chemical
sector with adequate regime of fiscal incentives to attract private investment.
I certify, in accordance with section 2(1) of the Acts Authentication Act, Cap. 4, Laws of the Federation of Nigeria
1990, that this is a true copy of the Bill passed by both Houses of the National Assembly.

IBRAHIM SALIM, CON.
Clerk to the National Assembly

EXPLANATORY MEMORANDUM
This Act establishes the Petroleum Products Pricing Regulatory Agency as an autonomous agency to primarily
determine the pricing policy of petroleum products and regulate their supply and distribution.

PETROLEUM PRODUCTS PRICING REGULATORY AGENCY
(ESTABLISHMENT, ETC.) ACT (2003)

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
PETROLEUM PROFITS TAX ACT 1958

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PETROLEUM PROFITS TAX ACT 1958

An Act to impose a tax upon profits from the winning of Petroleum in Nigeria, to provide for the assessment and collection thereof and for purposes connected therewith.

Commencement [1st January, 1958]

PART I
Preliminary

1. Short title
This Act may be cited as the Petroleum Profits Tax Act.

2. Interpretation
In this Act, unless the context otherwise requires —
“accounting period”, in relation to a company engaged in petroleum operations, means —
(a) a period of one year commencing on 1 January and ending on 31 December of the same year; or
(b) any shorter period commencing on the day the company first makes a sale or bulk disposal of chargeable oil under a programme of continuous production and sales, domestic, export or both, and ending on 31 December of the same year; or
(c) any period of less than a year being a period commencing on 1 January of any year and ending on the date in the same year when the company ceases to be engaged in petroleum operations,
and in the event of any dispute with respect to the date of the first sale of chargeable oil above or with respect to the date on which the company ceases to be engaged in petroleum operations, the Minister of Petroleum Resources shall determine the same and no appeal shall lie therefrom;

“adjusted profit” means adjusted profit for the purpose of section 9 of this Act;
“assessable profits” means assessable profits for the purpose of section 9 of this Act;
“assessable tax” means assessable tax ascertained under section 21 of this Act;
“Board” means the Federal Board of Inland Revenue, established and constituted in accordance with section 1 of the Companies Income Tax Act;

“casinghead petroleum spirit” means any liquid hydro-carbons obtained in Nigeria from natural gas by separation or by any chemical or physical process but before the same has been refined or otherwise treated;
“chargeable natural gas” in relation to a company engaged in petroleum operations means natural gas actually delivered by such company to the Nigerian National Petroleum Corporation under a Gas Sales Contract but does not include natural gas taken by or on behalf of the Government of the Federation in pursuance of this Act;
“chargeable profits” means chargeable profits for the purpose of section 9 of this Act;
“chargeable tax” means chargeable tax ascertained under section 22 of this Act and imposed under this Act;
“company” means any body corporate incorporated under any law in force in Nigeria or elsewhere;
“crude oil” means any oil (other than oil extracted by destructive distillation from coal, bituminous shales or other stratified deposits) won in Nigeria either in its natural state or after the extraction of water, sand or other foreign substance therefrom but before any such oil has been refined or otherwise treated;
“disposal” and “disposed of”, in relation to chargeable oil owned by a company engaged in petroleum operations, mean or connote respectively —
(a) delivery, without sale, of chargeable oil to; and
(b) chargeable oil delivered, without sale, to a refinery or to an adjacent storage tank for refining by the Company;

“G-Factor” means gas production cost adjustment factor;
“High Court” means a High Court in Nigeria within whose jurisdiction —
(a) in relation to any offence under this Act, the place is situated where such offence is, for the purposes of this Act, deemed to have occurred;
(b) in relation to any tax or appeal against an assessment of tax, the place is situated where the return under section 33 of this Act was submitted or where the assessment of the tax was made as the case may be;
(c) in relation to any direction under section 32(2) of this Act, the place is situated from which the direction was issued; and
(d) in relation to any claim or other matter which is subject to appeal in like manner as an assessment, or to which the provisions of section 38 of this Act apply with any modifications, the place is situated from which the claim or other matter was refused by the Board;
“intangible drilling costs” means all expenditure for labour fuel, repairs, maintenance, hauling, and supplies and materials (not being supplies and materials for well cement, casing or other well fixtures) which are for or incidental to drilling, cleaning, deepening or completing wells or the preparation thereof incurred in respect of —
(a) determination of well locations, geological studies and topographical and geographical surveys preparatory to drilling;
(b) drilling, shooting, testing and cleaning wells;
(c) cleaning, draining and levelling land, road building and the laying of foundations;
(d) erection of rigs and tankage assembly and installation of pipelines and other plant and equipment required in the preparation or drilling of wells producing petroleum;
“Liquified natural gas” means natural gas in its liquid state at approximately atmospheric pressure;
“loss” means a loss ascertained in like manner as an adjusted profit;
“Minister” means the Minister charged with responsibility for matters relating to taxes on incomes and profits;
“MMcf” means one million cubic feet;
“natural gas” means gas obtained in Nigeria from bore holes and wells and consisting primarily of hydro-carbons;
“Nigeria” includes the submarine areas beneath the territorial waters of Nigeria and the submarine areas beneath any other waters which are or at any time shall in respect of mines and minerals become subject to the legislative competence of the National Assembly;
“Non-productive rents” means and includes the amount of any rent as to which there is provision for its deduction from the amount of any royalty under a petroleum prospecting licence or oil mining lease to the extent that such rent is not so deducted;
“oil mining lease” means a lease granted to a company, under the Minerals Act, for the purpose of winning petroleum or any assignment of such lease;
[Cap. M12]
“oil prospecting licence” means a licence granted to a company, under the Minerals Act, for the purpose of winning petroleum, or any assignment of such licence;
“person” includes a company and any unincorporated body of persons;
“petroleum” means any mineral oil or relative hydro-carbon and natural gas existing in its natural condition in Nigeria but does not include liquefied natural gas, coal, bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation;
“petroleum operations” means the winning or obtaining and transportation of petroleum or chargeable oil in Nigeria by or on behalf of a company for its own account by any drilling, mining, extracting or other like operations or process, not including refining at a refinery, in the course of a business carried on by the company engaged in such operations, and all operations incidental thereto and any sale of or any disposal of chargeable oil by or on behalf of the company;
“profits” means profits for the purpose of section 9 of this Act;
“resident in Nigeria”, in relation to a company, means a company the control and management of the business of which are exercised in Nigeria;
“royalties” means and includes —
(a) the amount of any rent as to which there is provision for its deduction from the amount of any royalties under an oil prospecting licence or oil mining lease to the extent that such rent is so deducted; and
(b) the amount of any royalties payable under any such licence or lease less any such rent deducted from those royalties;
“tax” means chargeable tax.

PART II
Administration

3. Powers and Duties of the Board
(1) Subject to the provisions of this Act —
(a) the due administration of this Act and the tax shall be under the care and management of the Board who may do all such acts as may be deemed necessary and expedient for the assessment and collection of the tax and shall account for all amounts so collected in a manner to be prescribed by the Minister;
(b) whenever the Board shall consider it necessary with respect to any tax due, the Board may acquire, hold and dispose of any property taken as security for or in satisfaction of any tax or of any judgment debt due in respect of any tax and shall account for any such property and the proceeds of sale thereof in a manner to be prescribed as aforesaid;
(c) the Board may sue and be sued in its official name and, subject to any express provision under any subsidiary legislation or otherwise, the Board may authorise any person to accept service of any document to be sent, served upon or delivered to the Board and to represent the Board in any proceedings;
(d) subject to such conditions as the Board may specify the Board may by notice in the Federal Gazette direct that any information, return or documents required to be supplied, forwarded or given to the Board may be supplied to such other person whether within or without Nigeria as the Board may direct;

(e) the Board may by notice in the Federal Gazette or in writing authorise any person within or without Nigeria to —
   (i) perform or exercise, on behalf of the Board, any power or duty conferred upon the Board other than the powers or duties specified in the First Schedule, and
   (ii) receive any notice or other document to be given, delivered or served upon the Board under or in consequence of this Act or any subsidiary legislation made thereunder;

(f) in the exercise of the powers and duties conferred upon the Board, the Board shall be subject to the authority, direction, and control of the Minister and any written direction, order or instruction given by him after consultation with the Chairman of the Board shall be carried out by the Board:

Provided that the Minister shall not give any direction, order or instruction in respect of any particular company which would have the effect of requiring the Board to raise an additional assessment upon such company or to increase or decrease any assessment made or to be made or any penalty imposed or to be imposed upon or any relief given or to be given to or to defer the collection of any tax, penalty or judgment debt due by such company, or which would have the effect of altering the normal course of any proceedings, whether civil or criminal, relating either to the recovery of any tax or penalty or any offence relating to tax;

(g) every claim, objection, appeal, representation or the like made by any person under any provision of this Act or of any subsidiary legislation made thereunder shall be made in accordance with such Act and legislation; and

(h) in any claim or matter or upon any objection or appeal under this Act, any act matter or thing done by or with the authority of the Board, in pursuance of any provisions of this Act shall not be subject to challenge on the ground that such act, matter or thing was not or was not proved to be in accordance with any direction, order or instruction given by the Minister.

[First Schedule]

4. Signification and execution of powers, duties, etc.

(1) Anything required to be done by the Board, in relation to the powers or duties specified in the First Schedule of this Act, may be signified under the hand of the Chairman of the Board, or of an officer of the Federal Inland Revenue Department who has been authorised by the Board to signify from time to time, anything done or to be done by the Board in respect of such powers or duties.

[First Schedule]

(2) Any authorisation given by the Board under or by virtue of this Act shall be signified under the hand of the Chairman of the Board unless such authority is notified in the Federal Gazette.

(3) Subject to subsection (1) of this section, any notice or other document to be given under this Act shall be valid if—
   (a) it is signed by the Chairman of the Board or by any person authorised by him; or
   (b) such notice or document is printed and the official name of the Board is duly printed or stamped thereon.

(4) Every notice, authorisation or other document purporting to be a notice, authorisation or other document duly given and signified, notified or bearing the official name of the Board, in accordance with the provisions of this section, shall be deemed to be so given and signified, notified or otherwise without further proof, until the contrary is shown.

5. Official secrecy, etc

(1) Every person having any official duty or being employed in the administration of this Act shall regard and deal with all documents, information, returns, assessment lists and copies of such lists relating to the income, chargeable profits or items thereof of any company, as secret and confidential.

(2) Every person having possession of or control over any documents, information, returns or assessment lists or copies of such lists relating to tax or petroleum operations or the amount and value of chargeable oil won by any company, who at time communicates or attempts to communicate such information or anything contained in such documents, returns, lists, or copies to any person —
   (a) other than a person to whom he is authorised by the Minister to communicate it; or
   (b) otherwise than for the purpose of this Act or of any Act or law, relating to a tax upon income, in force in any part of Nigeria, shall be guilty of an offence.
(3) No person appointed under or employed in carrying out the provisions of this Act shall be required to produce in any court, any return, document or assessment, or to divulge or communicate to any court any matter or thing coming under his notice in the performance of his duties under this Act except as may be necessary for the purpose of carrying into effect the provisions of this Act, or in order to institute a prosecution, or in the course of a prosecution for any offence committed in relation to tax.

(4) Where under any law in force in any territory outside Nigeria provision is made for the allowance of relief from income tax and similar taxes in respect of the payment of income tax and similar taxes in Nigeria or for the exemption of income from income tax and similar taxes in respect of income subject to income tax and similar taxes in Nigeria, the obligation as to secrecy imposed by this section shall not prevent the disclosure to the authorised officers of the Government in that territory of such facts as may be necessary to enable the proper relief or exemption to be given in cases where relief or exemption is claimed from income tax and similar taxes in Nigeria or from income tax and similar taxes in that territory. For the purposes of this subsection, tax (as defined in this Act) shall be regarded as a tax similar to an income tax.

(5) Notwithstanding anything contained in this section, the Board may permit the Auditor-General for the Federation or any officer duly authorised in that behalf to have such access to any records or documents as may be necessary for the performance of his official duties, and the Auditor-General for the Federation or any such officer shall be deemed to be a person employed in carrying out the provisions of this Act for the purpose of this section.

6. Rules and Forms
   (1) The Minister may, from time to time, make rules generally for the carrying out of the provisions of this Act,
   (2) The Board may, from time to time, specify the form of returns, claims, statements and notices under this Act.

7. Service and Signature of Notices
   (1) Except where it is provided by this Act that service shall be effected either personally or by registered post the provisions of section 26 of the Interpretation Act shall apply to the service of a notice, if such notice is addressed in accordance with the provisions of subsection (3) of this section.
   [Cap. I23]
   (2) Where a notice is sent by registered post it shall be deemed to have been served on the day succeeding the day on which the addressee of the registered letter containing the notice would have been informed in the ordinary course of events that such notice is addressed in accordance with the provisions of subsection (3) of this section:
   Provided that a notice shall not be deemed to have been served under this subsection if the addressee proves that no notification, informing him of the fact that the registered letter was awaiting him at a post office, was left at the address given on such registered letter.
   (3) A notice to be served in accordance with subsection (1) or (2) of this section shall be addressed—
   (a) In the case of a company incorporated in Nigeria, to the registered office of the company; and
   (b) In the case of a company incorporated outside Nigeria, either to the individual authorised to accept service of process under the Companies and Allied Matters Act at the address filed with the Registrar-General, or to the registered office of the company wherever it may be situated.
   [Cap C20]
   (4) Any notice to be given, sent or posted under this Act may be served by being left at the appropriate office or address determined under subsection (3) of this section unless such address is a registered post office box number.

PART III

Imposition of tax and ascertainment of chargeable profits

8. Charge of Tax
   There shall be levied upon the profits of each accounting period of any company engaged in petroleum operations during that period, a tax to be charged, assessed and payable in accordance with the provisions of this Act.

9. Ascertainment of profits, adjusted profits, assessable profits and chargeable profits
   (1) Subject to any express provisions of this Act, in relation to any accounting period, the profits of that period of a company shall be taken to be aggregate of —
   (a) the proceeds of sale of all chargeable oil sold by the company in that period;
   (b) the value of all chargeable oil disposed of by the company in that period; and
(c) all income of the company of that period incidental to and arising from any one or more of its petroleum operations.

(2) For the purposes of subsection (1) (b) of this section, the value of any chargeable oil so disposed of shall be taken to the aggregate of —
(a) the value of that oil as determined, for the purpose of royalty, in accordance with the provisions of any enactment applicable thereto and any financial agreement or arrangement between the Federal Government of Nigeria and the company;
(b) any cost of extraction of that oil deducted in determining its value as referred to in paragraph (a) of this subsection; and
(c) any cost incurred by the company in transportation and storage of that oil between the field of production and the place of its disposal.

(3) The adjusted profit of an accounting period shall be the profits of that period after the deductions allowed by subsection (1) of section 10 of this Act and any adjustments to be made in accordance with the provisions of section 14 of this Act.

(4) The assessable profit of an accounting period shall be the adjusted profit of that period after any deduction allowed by section 20 of this Act.

(5) The chargeable profits of an accounting period shall be the assessable profits of that period after the deduction allowed by section 20 of this Act.

10. Deductions 1973 No 15

(1) In computing the adjusted profit of any company of any accounting period from its petroleum operations, there shall be deducted all outgoings and expenses wholly, exclusively and necessarily incurred, whether within, or without Nigeria, during that period by such company for the purpose of those operations, including but without otherwise expanding or limiting the generality of the foregoing —
(a) rents incurred by the company for that period in respect of land or buildings occupied under an oil prospecting license or an oil mining lease for disturbance of surface rights or any other like disturbances;
(b) all non-productive rents, the liability for which was incurred by the company during that period;
(c) all royalties, the liability for which was incurred by the company during that period in respect of natural gas sold and actually delivered to the Nigerian National Petroleum Corporation, or sold to any other buyer or customer or disposed of in any other commercial manner;
(d) all royalties, the liability for which was incurred by the company during that period in respect of crude oil or of casing head petroleum spirit won in Nigeria;
(e) all sums the liability for which was incurred by the company to the Federal Government of Nigeria during that period by way of customs or excise duty or other-like charges levied in respect of machineries, equipment and goods used in the company's petroleum operation; and
(f) sums incurred by way of interest upon any money borrowed by such company, where the Board is satisfied that the interest was payable on capital employed in carrying on its petroleum operations;
(g) all sums incurred by way of interest on any inter-company loans obtained under terms prevailing in the open market, that is, the London Inter-Bank Offer Rate, by companies that engage in crude oil production operations in the Nigerian Oil Industry;
(h) any expense incurred for repair of premises, plant, machinery, or fixtures employed for the purpose of carrying on petroleum operations or for the renewal, repair or alteration of any implement, utensils or articles so employed;
(i) debts directly incurred to the company and proved to the satisfaction of the Board to have become bad or doubtful in the accounting period for which the adjusted profit is being ascertained notwithstanding that such bad or doubtful debts were due and payable prior to the commencement of that period:
Provided that —
(i) the deduction to be made in respect of a doubtful debt shall not exceed that portion of the debt which is proved to have become doubtful during that accounting period, nor in respect of any particular debt shall it include any amount deducted under the provisions of this paragraph in determining the adjusted profit of a previous accounting period;
(ii) all sums recovered by the company during that accounting period on account of amounts previously deducted in respect of bad or doubtful debts shall, for the purposes of subsection (1) (c) of section 9 of this Act, be treated as income of that company of that period; and

(iii) it is proved to the satisfaction of the Board that the debts in respect of which a deduction is claimed were either —

(a) included as a profit from the carrying on of petroleum operations in the accounting period in which they were incurred; or

(b) advances made in the normal course of carrying on petroleum operations not being advances on account of any item falling within the provisions of section 13 of this Act;

(j) any other expenditure, including tangible drilling costs directly incurred in connection with drilling and appraisal of development well, but excluding an expenditure which is qualifying expenditure for the purpose of the Second Schedule to this Act, and any expense or deduction in respect of a liability incurred which is deductible under any other provision of this section;

[1996 No. 31]

(i) any expenditure (tangible or intangible) directly incurred in connection with the drilling of an exploration well and the next two appraisal wells in the same field whether the wells are productive or not;

(ii) where a deduction may be given under this section in respect of any such expenditure that, expenditure shall not be treated as qualifying drilling expenditure for the purpose of the Second Schedule.

[Second Schedule]

(k) any contribution to a pension, provident or other society, scheme or fund which may be approved, with or without retrospective effect, by the Board subject to such general conditions or particular conditions in the case of any such society, scheme or fund as the Board may prescribe:

Provided that any sum received by or the value of any benefit obtained by such company, from any approved pension, provident or other society, scheme, or fund, in any accounting period of that company shall, for the purposes of subsection (1)(c) of section 9 of this Act, be treated as income of that company of that accounting period;

(l) all sums, the liability of which was incurred by the company during that period to the Federal Government, or to any State or Local Government Council in Nigeria by way of duty, customs and excise duties, stamp duties, education tax, tax (other than the tax imposed by this Act) or any other rate, fee or other like charges.

[1996 No. 31]

(m) such other deductions as may be prescribed by any rule made under this Act.

(2) Where a deduction has been allowed to a company under this section in respect of any liability of the company and such liability or any part thereof is waived or released the amount of the deduction or the part thereof corresponding to such part of the liability shall, for the purposes of subsection (1)(c) of section 9 of this Act, be treated as income of the company of its accounting period in which such waiver or release was made or given.

11. Incentives for utilization of associated gas

(1) The following incentives shall apply to a company engaged in the utilisation of associated gas, that is-

[1998 No. 18]

(a) investment required to separate crude oil and gas from the reservoir into usable products shall be considered as part of the oil field development;

(b) capital investment on facilities equipment to deliver associated gas in usable form at utilization or designated custody transfer points shall be treated, for tax purposes, as part of the capital investment for oil development;

(c) capital allowances, operating expenses and basis of tax assessment shall be subject to the provisions of this Act and the tax incentives under the revised memorandum of understanding.

(2) The incentives specified under subsection (1) of this section shall be subject to the following conditions, that is —

(a) condensates extracted and re-injected into the crude oil stream shall be treated as oil but those not re-injected shall be treated under existing tax arrangement;

(b) the company shall pay the minimum amount charged by the Minister of Petroleum Resources for any gas flared by the company;

(c) the company shall, where practicable, keep the expenses incurred in the utilization of associated gas separate from those incurred on crude oil operation and only expenses not able to be separated shall be
allowable against the crude oil income of the company under this Act;
(d) expenses identified as incurred exclusively in the utilization of associated gas shall be regarded as gas expenses and be allowable against the gas income and profit to be taxed under the Companies Income Tax Act;

(e) only companies which invest in natural gas liquid extraction facilities to supply gas in usable form to downstream projects, including aluminium smelter and methanol, Methyl Tertiary Butyl Ether and other associated gas utilization projects shall benefit from the incentives.
(f) all capital investments relating to the gas-to-liquids facilities shall be treated as chargeable capital allowance and recovered against the crude oil income;

(g) gas transferred from the natural gas liquid facility to the gas-to-liquids facilities shall be at zero per cent tax and zero per cent royalty.

12. Application of Incentives to Utilization of Non-Associated Gas
All incentives granted in respect of investments in associated gas shall be applicable to investments in non-associated gas.

13. Deductions Not Allowed
(1) Subject to the express provisions of this Act, for the purpose of ascertaining the adjusted profit of any company of any accounting period from its petroleum operations, no deduction shall be allowed in respect of —
(a) any disbursement or expenses not being wholly and exclusively laid out or expended, or any liability not being a liability wholly or exclusively incurred, for the purpose of those operation;
(b) any capital withdrawn or any sum employed or intended to be employed as capital;
(c) any capital employed in improvement as distinct from repairs;
(d) any sum recoverable under any insurance or contract of indemnity;
(e) rent of or cost of repair to any premises or part of premises not incurred for the purposes of those operations;
(f) any amount incurred in respect of any income tax, profit tax, or similar tax whether charged within Nigeria or elsewhere;
(g) the depreciation of any premises, buildings, structures, works of a permanent nature, plant, machinery or fixtures;
(h) any payment to any provident, savings, widows', orphans' or other society, scheme or fund except such payments as are allowed under subsection (1)(g) of section 10 of this Act;
(i) any customs duty on goods (including articles or any other thing) imported by the company —

(j) any expenditure for the purchase of information relating to the existence and extent of petroleum deposits.

(2) Notwithstanding the provisions of subsection (1)(d) of section 10 of this Act, in computing the adjusted profit of any company of any accounting period no deduction shall be allowed in respect of sums incurred by way of interest during that period upon any borrowed money where such money was borrowed from a second company if during that period —
(a) either company has an interest in the other company, or
(b) both have interests in another company either directly or through other companies, or
(c) both are subsidiaries of another company.

(3) For the purposes of subsection (2) of this section —
(a) a company shall be deemed to be a subsidiary of another company if and so long as an interest in it is held by that other company either directly or through any other company or companies;
(b) an interest means a beneficial interest in issued share capital (by whatever name called); and
(c) the Board shall disregard any such last mentioned interest which in their opinion is insignificant or remote, or where in their opinion that interest arises from a normal market investment and the
14. Exclusion of certain profits, etc.
Where a company engaged in petroleum operations is engaged in the transportation of chargeable oil by ocean going oil-tankers operated by or on behalf of the company from Nigeria to another territory then such adjustments shall be made in computing an adjusted profit or a loss as shall have the effect of excluding therefrom any profit or loss attributable to such transportation.

15. Artificial transaction, etc.
(1) Where the Board is of opinion that any disposition is not in fact given effect to or that any transaction which reduces or would reduce the amount of any tax payable is artificial or fictitious, the Board may disregard any such disposition or direct that such adjustments shall be made as respects liability to tax as the Board considers appropriate so as to counteract the reduction of liability to tax effected, or reduction which would otherwise be effected, by the transaction and the companies concerned shall be assessable accordingly. In this subsection, the expression “disposition” includes any trust, grant, covenant, agreement or arrangement.

(2) For the purpose of this section, the following transactions shall be deemed to be artificial or fictitious, namely, transactions between persons one of whom has control over the other or between persons both of whom are controlled by some other person which, in the opinion of the Board, have not been made on the terms which might fairly have been expected to have been made by independent persons engaged in the same or similar activities dealing with one another at arm’s length.

(3) Nothing in this section shall prevent the decision of the Board in the exercise of any discretion given to the Board by this section from being questioned in an appeal against an assessment in accordance with Part VIII of this Act and on the hearing of any such appeal the appropriate Appeal Commissioners or the Court may confirm or vary any such decision including any directions made under this section.

16. Assesseeable profits and losses
(1) Subject to the provisions of this section, the assessable profits of any company for any accounting period shall be the amount of the adjusted profit of that period after the deduction of-
(a) the amount of any loss incurred by that company during any previous accounting period; and
(b) in a case to which section 18 of this Act applies, the amount of any loss which under that section is deemed to be a loss incurred by that company in its trade or business during its first accounting period.

(2) A deduction under subsection (1) of this section shall be made so far as possible from the amount, if any, of the adjusted profit of the first accounting period after that in which the loss was incurred, and, so far as it cannot be so made, then from the amount of the adjusted profit of the next succeeding accounting period and so on.

(3) Within five months after the end of any accounting period of a company, or within such further time as the Board may permit in writing in any instance, the company may elect in writing that a deduction or any part thereof to be made under this section shall be deferred to and be made in the succeeding accounting period, and may so elect from time to time in any succeeding accounting period.

17. Trade or business sold or transferred to a Nigerian company
(1) Without prejudice to section 28 of this Act, where a trade or business of petroleum operations carried on in Nigeria by a company incorporated under, any law in force in Nigeria is sold or transferred to a Nigerian company for the purposes of better organisation of that trade or business or the transfer of its management to Nigeria and any asset employed in that trade or business is so sold or transferred, then, if the Board is satisfied that one of those companies has control over the other or that both companies are controlled by some other person or are members of a recognised group of companies, the provisions set out in subsection (2) of this section shall have effect.

(2) In a case to which subsection (1) of this section applies the Board may in its discretion-
(a) if, on or before the date on which the trade or business is so sold or transferred, the first sale of or bulk disposal of chargeable oil by or on behalf of the company selling or transferring the trade or business has occurred, but the first sale of or bulk disposal of chargeable oil by or on behalf of the Nigerian company acquiring that trade or business has not occurred —
(i) direct that the first accounting period of the Nigerian company shall be the period of twelve months commencing on the date on which the sale or transfer of the trade or business takes place, or commencing on such date within the calendar month in which the sale or transfer takes place as may be selected by the Nigerian company with the approval of the Board, and
(ii) for the purposes of subsection (2)(a)(1) of this section, an accounting period as respects the Nigerian company shall be a period of twelve months commencing on the date on which the sale or transfer of the trade or business to the Nigerian company takes place, or commencing on
such date within the calendar month in which the sale or transfer takes place as may be selected by the Nigerian company with the approval of the Board, and the definition of “accounting period” in section 2 of this Act shall be construed accordingly, but without prejudice to the continued application in respect of the Nigerian company of the provisions of paragraphs (b), (c) and (d) of that definition;

Second Schedule

(b) direct that for the purposes of the Second Schedule the asset sold or transferred to the Nigerian company by the company selling or transferring the trade or business shall be deemed to have been sold for an amount equal to the residue of the qualifying expenditure on the asset on the day following the day on which the sale or transfer thereof occurred; and

(c) direct that the Nigerian company, acquiring the asset so sold or transferred shall not be entitled to any initial allowance in respect of that asset, and shall be deemed to have received all allowances given to the company selling or transferring the trade or business in respect of the asset under the Second Schedule and any allowances deemed to have been received by that company under the provisions of this paragraph:

Provided that the Board in its discretion—

(i) may require the company selling or transferring the trade or business, or the Nigerian company acquiring that trade or business, to guarantee or give security, to the satisfaction of the Board for payment in full of all tax due or to become due from the company selling or transferring the trade or business, and

(ii) may impose such conditions as it sees fit on either of the companies aforesaid or on both of them, and in the event of failure by that company or, as the case may be, those companies to carry out or fulfill the guarantee or conditions, the Board may revoke the direction and may make all such additional assessments or repayment of tax as may be necessary to give effect to the revocation.

(3) In this section—

“Nigerian company” means any company the control and management of whose activities are exercised in Nigeria; and

“references to a trade or business” shall include references to any part thereof.

18. Trade or Business Transferred under the Companies Act

(1) Where in pursuance of the provisions of Part X of the Companies and Allied Matters Act, a company (in this subsection referred to as “the Reconstituted Company”) is incorporated under that Act to carry on any trade or business of petroleum operations previously carried on in Nigeria by a foreign company and the assets employed in Nigeria by the foreign company in that trade or business vest in the reconstituted company, then, if the Board is satisfied that the trade or business carried on by the reconstituted company immediately after the incorporation of that company under that Act is not substantially different in nature from the trade or business previously carried on in Nigeria by the foreign company, the provisions set out in subsection (2) of this section shall have effect, notwithstanding anything in this Act to the contrary.

(2) The following provisions shall have effect in a case to which subsection (1) of this section applies, namely—

(a) if as respects the trade or business previously carried on in Nigeria by the foreign company the first sale of or bulk disposal of chargeable oil by or on behalf of the foreign company has occurred on or before the date on which the Reconstituted Company is incorporated—

(i) the first accounting period of the Reconstituted Company shall be the period of twelve months commencing on the date on which that company is incorporated, or commencing on such date within the calendar month in which the company is incorporated as may be selected by the company with the approval of the Board, and

(ii) for the purposes of subsection (2)(a)(1) of this section, an accounting period as respects the Reconstituted Company shall be a period of twelve months commencing on the date on which that company is incorporated, or commencing on such date within the calendar month in which the company is incorporated as may be selected by the company with the approval of the Board, and the definition of “accounting period” in section 2(a) of this Act shall be construed accordingly, but without prejudice to the continued application in respect of the Reconstituted Company of the provisions of paragraphs (b), (c) and (d) of that definition;

(b) for the purposes of the Second Schedule to this Act, the assets so vested in the reconstituted company shall be deemed to have been sold to it, on the day of its incorporation, for an amount equal to the residue of the qualifying expenditure thereon on the day following the day on which the trade or
business previously carried on, in Nigeria by the foreign company ceased;

[Second Schedule]

(c) the reconstituted company shall not be entitled to any initial allowances as respects those assets, and shall be deemed to have received all allowances given to the foreign company in respect of those assets under the Second Schedule and any allowances deemed to have been received by the foreign company under the provisions of this paragraph or section 17 of this Act; and

(d) the amount of any loss incurred during any accounting period by the foreign company in the said trade or business previously carried on by it in Nigeria, being a loss which has not been allowed against any assessable profits of any accounting period of that foreign company, shall be deemed to be a loss incurred by the Reconstituted Company in its trade or business during its first accounting period; and the amount of that loss shall, in accordance with the provisions of section 16 of this Act, be deducted from the adjusted profits of the Reconstituted Company:

Provided that —

(i) no deduction shall be made under this paragraph in respect of the loss aforesaid except to the extent, if any, to which it is proved by the Reconstituted Company to the satisfaction of the Chief Petroleum Engineer in the civil service of the Federation that the loss was not the result of any damage or destruction caused by any military or other operations connected with the civil war in which Nigeria was engaged,

(ii) notwithstanding the foregoing proviso, the President may by order, direct that, to the extent specified in the direction, a deduction under this paragraph shall be made in respect of a loss which is the result of any damage or destruction caused by any military or other operations mentioned in that proviso:

Provided, however, that no deduction in respect of any loss to which this paragraph applies shall be made unless within two years after the incorporation of the Reconstituted Company a claim for that deduction is lodged by that company with the Chief Petroleum Engineer aforesaid and a copy of the claim is forwarded by that company to the Board.

(3) In this section “foreign company” means a company incorporated outside Nigeria before 18th November, 1968, and having on that date an established place of business in Nigeria.

19. Board may call for returns and information relating to certain assets, etc

For the purpose of sections 17 and 18 of this Act, the Board may by notice require any person, (including a company to which any assets are sold or transferred, or in which any assets have vested in pursuance of Part X of the Companies and Allied Matters Act, to complete and deliver to the Board any returns specified in the notice or any such information as the Board may require about the assets; and it shall be the duty of that person to comply with the requirements of any such notice within the period specified in the notice, not being a period of less than twenty-one days from the service thereof.

[Cap C20]

20. Chargeable Profits and Capital Allowances

(1) The chargeable profits of any company of any accounting period shall be the amount of the assessable profits of that period after the deduction of any amount to be allowed in accordance with the provisions of this section.

(2) There shall be computed the aggregate amount of all allowances due to the company under the provisions of the Second Schedule for the accounting period.

[Second Schedule]

(3) In calculating the amount of the deduction to be allowed under this section for the accounting period, the limitation imposed by subsection (4) of this section shall be applied to ensure that the amount of any, tax chargeable on the company for that period shall be not less than fifteen per cent of the tax which would be chargeable on the company for that period if no deduction were to be made under this section for that period.

(4) The amount to be allowed as a deduction under subsection (1) in respect of the said allowances shall be—

(a) the aggregate amount computed under subsection (2) of this section; or

(b) a sum equal to 85% of the assessable profits of the accounting period less 170% of the total amount of the deductions allowed as petroleum investment allowance computed under the second schedule to this Act for that period,

whichever is the less.

[Second Schedule]
(5) Where the total amount of the allowances computed under subsection 2 of this section cannot be deducted under subsection (1) of this section owing to there being an insufficiency of or no assessable profits of the accounting period or to the limitation imposed by subsection (4) of this section such total amount or the part thereof which has not been so deducted as the case may be, shall be added to the aggregate amount to be computed under subsection (2) of this section for the following accounting period of the company, and thereafter shall be deemed to be an allowance due to the company, under the provisions of the Second Schedule to this Act for that following accounting period.

PART IV
Ascertainment of Assessable Tax and of Chargeable Tax

21. Assessable Tax
(1) The assessable tax for any accounting period of a company shall be an amount equal to 85% of its chargeable profits of that period.
(2) Where a company has not qualified for treatment under paragraph 6(4) of the Second Schedule to this Act, that is to say, where a company has not yet commenced to make a sale or bulk disposal of chargeable oil under a programme of continuous production and sales as at 1 April, 1977, its assessable tax for any accounting period during which it has not fully amortised all pre-production capitalised expenditure due to it less the amount to be retained in the book as provided for in paragraph 6 of the Second Schedule to this Act shall be 65.75% of the chargeable profits for that period.

22. Chargeable tax
(1) A crude oil producing company which executed a Production Sharing Contract with the Nigeria National Petroleum Corporation in 1993 shall, throughout the duration of the Production Sharing Contract, be entitled to claim an investment tax credit allowance as an offset against tax in accordance with the provisions of the Production Sharing Contract.
(2) The investment tax credit rate applicable to the contract area shall be 50% flat rate of chargeable profit for the duration of the Production Sharing Contract.
(3) In computing the tax payable, the investment tax credit shall be applicable in full to petroleum operations in the contract area such that the chargeable tax is the amount of the assessable tax less the investment tax credit.
(4) The chargeable tax computed under subsection (3) of this section shall be split between the Nigerian National Petroleum Corporation and the crude oil producing company in accordance with the proportion of the percentage of profit of oil split.
(5) In this section—
“contract area” means the contract area as defined in the Production Sharing Contract;
“Production Sharing Contract” has the meaning assigned to it in the Deep Offshore and Inland Basin Production Sharing Contracts Act.

23. Additional Chargeable Tax Payable in Certain Circumstances
(1) If, for any accounting periods of a company, the amount of the chargeable tax for that period, calculated in accordance with the provisions of this Act other than this section, is less than the amount mentioned in subsection (2) of this section, the company shall be liable to pay an additional amount of chargeable tax for that period equal to the difference between those two amounts.
(2) The amount referred to in the foregoing subsection is, for any accounting period of a company, the amount which the chargeable tax for that period, calculated in accordance with the provisions of this Act, would come to if, in the case of crude oil exported from Nigeria by the company, the reference in section 9(1)(a) of this Act to the proceeds of sale thereof were a reference to the amount obtained by multiplying the number of barrels of that crude oil by the relevant sum per barrel.
(3) For the purposes of subsection (2) of this section the relevant sum per barrel of crude oil exported by a company is the posted price applicable to that crude oil reduced by such allowances (if any) as may from time to time be agreed in writing between the Government of Nigeria and the company.

(4) The whole of any additional chargeable tax payable by a company by virtue of this section for any accounting period shall be payable concurrently with the final instalment of the chargeable tax payable for that period apart from this section, and shall be assessed and be paid by the company accordingly under the provisions of this Act.

(5) In this section, “posted price”, in relation to any crude oil exported from Nigeria by a company, means the price F.O.B. at the Nigerian port of export for crude oil of the gravity and quality in question which is from time to time established by the company, after agreement with the Government of Nigeria as to the procedure to be followed for the purpose, as its posted price for Nigerian crude oil of that gravity and quality.

(6) Every posted price established as aforesaid must bear a fair and reasonable relationship—
   (a) to the established posted prices of Nigerian crude oils of comparable quality and gravity, if any; or
   (b) if there are no such established posted prices for such Nigerian crude oils, to the posted prices at main international trading export centers for crude oil of comparable quality and gravity, due regard being had in either case to freight differentials and all other relevant factors.

(7) References in this section to crude oil include references to casinghead petroleum spirit, which has been injected into crude oil.

(8) Where any crude oil which in relation to a particular company is chargeable oil is exported from Nigeria otherwise than by that company, that crude oil shall for the purposes of this section be deemed to be exported from Nigeria by that company.

PART V
Persons Chargeable

24. Partnership, etc.
   (1) Any person (other than a company) who engages in petroleum operations either on his own account or jointly with any other person or in partnership with any other person with a view to sharing the profits arising from those operations shall be guilty of an offence.

   (2) Where two or more companies are engaged in petroleum operations either in partnership, in a joint adventure or in concert under any scheme or arrangement, the Minister may make rules for the ascertainment of the tax to be charged and assessed upon each company so engaged.

   (3) Any such rules may modify the provisions of this Act in such manner as the Minister may think fit, and may if necessary, provide for the apportionment of any profits, outgoing, expenses, liabilities, deductions, qualifying expenditure and the tax chargeable upon each company, or may provide for the computation of any tax as if the partnership, joint adventure, scheme or arrangement were carried on by one company and apportion that tax between the companies concerned or may accept some other basis of ascertaining the tax chargeable upon each of the companies which may be put forward by those companies and such rules may contain provisions which have regard to any circumstances whereby such operations are partly carried on for any companies by an operating company whose expenses are reimbursed by those companies.

   (4) Any such rules may be expressed to be of general application for the purposes of this section and Act or of particular application to a specified partnership, joint adventure, scheme or arrangement.

   (5) Any such rules may be amended or replaced from time to time with or without retrospective effect.

   (6) The effect of any such rules shall not impose a greater burden of tax upon any company so engaged in any partnership, joint adventure, scheme or arrangement than would have been imposed upon that company under this Act if all things enjoyed, done or suffered by such partnership, joint adventure, scheme or arrangement had been enjoyed, done or suffered by that company in the proportion in which it enjoys, does or suffers those things under or by virtue of that partnership, joint adventure, scheme or arrangement.

25. Companies Not Resident in Nigeria
   (1) A company not resident in Nigeria which is or has been engaged in petroleum operations (hereinafter in this section referred to as a “non-resident company”) shall be assessable and chargeable to tax, either directly or in the name of its manager, or in the name of any other person who is resident in Nigeria, employed in the management of the petroleum operations carried on by such non-resident company, as such non-resident company would be assessed and charged if it were resident in Nigeria.
(2) The person in whose name a non-resident company is assessable and chargeable to tax shall be answerable —
   (a) for all matters required to be done by virtue of this Act for the assessment of the tax as might be required to be done by such non-resident company if it were resident in Nigeria; and
   (b) for paying any tax assessed and charged in the name of such person by virtue of subsection (1) of this section.

26. **Manager of companies, etc., to be answerable**
The manager or any principal officer in Nigeria of every company which is or has been engaged in petroleum operations shall be answerable for doing all such acts as are required to be done by virtue of this Act for the assessment and charge to tax of such company and for payment of such tax.

27. **Company wound up, etc**
(1) Where a company is being wound up or where in respect of a company a receiver has been appointed by any Court, by the holders of any debentures issued by the company or otherwise, the company may be assessed and charged to tax in the name of the liquidator of the company, the receiver or any agent in Nigeria of the liquidator or receiver and may be so assessed and charged to tax for any accounting period whether before, during or after the date of the appointment of the liquidator or receiver.
(2) Any such liquidator, receiver or agent shall be answerable for doing all such acts as are required to be done by virtue of this Act for the assessment and charge to tax of such company and for payment of such tax.
(3) Such liquidator or receiver shall not distribute any assets of the company to the shareholders or debenture holders thereof unless he has made provision for the payment in full of any tax which may be found payable by the company or by such liquidator, receiver or agent on behalf of the company.

28. **Avoidance by transfer**
Where a company which is or was engaged in petroleum operations transfers a substantial part of its assets to any person without having paid any tax, assessed or chargeable upon the company, for any accounting period ending prior to such transfer and in the opinion of the Board one reason for such transfer by the company was to avoid payment of such tax then that tax as charged upon the company may be sued for and recovered from that person in a manner similar to a suit for any other tax under section 48 of this Act subject to any necessary modification of that section.

29. **Indemnification of representative**
Every person answerable under this Act for the payment of tax on behalf of a company may retain out of any money in or coming to his hands or within his de facto control on behalf of such company so much thereof as shall be sufficient to pay such tax, and shall be and is hereby indemnified against any person whatsoever for all payments made by him in accordance with the provisions of this Act.

**PART VI**

**Accounts and Particulars**

30. **Preparation and delivery of accounts and particulars**
(1) Every company which is or has been engaged in petroleum operations shall for each accounting period of the company, make up accounts of its profits or losses, arising from those operations, of that period and shall prepare the following particulars—
   (a) computations of its estimated adjusted profit or loss and of its estimated assessable profits of that period;
   (b) in connection with the Second Schedule to this Act, a schedule showing— [Second Schedule]
      (i) the residues at the end of that period in respect of its assets,
      (ii) all qualifying petroleum expenditure incurred by it in that period,
      (iii) the values of any of its assets (estimated by references to the provisions of that Schedule) disposed of in that period, and
      (iv) the allowances due to it under that Schedule for that period;
   (c) a computation of its estimated chargeable profits of that period;
   (d) a statement of other sums, deductible under section 22 of this Act, the liabilities for which were incurred during that period;
   (e) a statement of all amounts repaid, refunded, waived or released to it, as referred to in subsection (5) of section 20 of this Act, during that period; and
   (f) a computation of its estimated tax for that period.
(2) Every company which is or has been engaged in petroleum operations shall, with respect to any accounting period of the company, within five months after the expiration of that period or within five months after the date of publication of this Act in the Federal Gazette upon enactment (whichever is later) deliver to the Board a copy of its accounts (bearing an auditor's certificate) of that period, made up in accordance with the provisions of subsection (1) of this section, and copies of the particulars referred to in that subsection relating to that period; and such copies of those accounts and each copy of those particulars (not being estimates) shall contain a declaration, which shall be signed by a duly authorised officer of the company or by its liquidator, receiver or the agent of such liquidator or receiver, that the same is true and complete and where such copies are estimates each copy shall contain a declaration, similarly signed, that such estimate was made to the best of the ability of the person signing the same.

31. Board may call for further information
The Board may give notice in writing to any company which is or has been engaged in petroleum operations when and is often as to the Board may seem necessary requiring it to furnish within such reasonable time as may be specified by such notice fuller or further information as to any of the matters either referred to in section 30 of this Act or as to any other matters which the Board may consider necessary for the purposes of this Act.

32. Power to call for returns, books, etc.
(1) For the purpose of obtaining full information in respect of any company’s petroleum operations the Board may give notice to such company requiring it within the time limited by such notice, which time shall not be less than twenty-one days from the date of service of such notice, to complete and deliver to the Board any information called for in such notice and in addition or alternatively requiring an authorised representative of such company or its liquidator, receiver or the agent of such liquidator or receiver, to attend before the Board or its authorised representative on such date or dates as may be specified in such notice and to produce for examination any books, documents, accounts and particulars which the Board may deem necessary.

(2) If a company assessable to tax under the provisions of this Act fails or refuses to keep books or accounts which, in the opinion of the Board are adequate for the purpose of ascertaining the tax, the Board may by notice in writing require it to keep such records, books and accounts as the Board considers to be adequate in such form and in such language as the Board may in the said notice direct and, subject to the provisions of subsections (3) and (4) of this section, the company shall keep records, books and accounts as directed.

(3) An appeal shall lie from any direction of the Board made under this section to a judge of the High Court.

(4) On hearing such appeal the judge may confirm or modify such direction and any such decision shall be final.

33. Returns of estimated tax
(1) Not later than two months after the commencement each accounting period of any company engaged in petroleum operations, the company shall submit to the Board a return, the form of which the Board may prescribe, of its estimated tax for such accounting period.

(2) If, at any time during any such accounting period the company having made a return as provided for in subsection (1) of this subsection is aware that the estimate in such return requires revision then it shall submit a further return containing its revised estimated tax for such period.

34. Extension of periods for making returns
Where it is shown by any company to the satisfaction of the Board that for some good reason the company is not able to comply with the provisions of section 30 of this Act, within the time limited by that section or any notice given to it under section 31 or 32 of this Act, within the time limited by any such notice, the Board may grant in writing such extension of that time as the Board may consider necessary.

PART VII
Assessments

35. Board to make assessments
(1) The Board shall proceed to assess every company with the tax for any accounting period of the company as soon as may be after the expiration of the time allowed to such company for the delivery of the accounts and particulars provided for in section 30 of this Act.

(2) Where a company has delivered accounts and particulars for any accounting period of the company, the Board may —
   (a) accept the same and make an assessment accordingly; or
   (b) refuse to accept the same and proceed as provided in subsection (3) of this section upon any
failure as therein mentioned and the like consequences shall ensue.

(3) Where, for any accounting period of a company, the company has failed to deliver accounts and particulars provided for in section 30 of this Act within the time limited by that section or has failed to comply with any notice given to it under the provisions of section 31 or 32 of this Act within the time specified in such notice or within any extended time provided for in section 34 of this Act and the Board is of the opinion that such company is liable to pay tax, the Board may estimate the amount of the tax to be paid by such company for that accounting period and make an assessment accordingly, but such assessment shall not affect any liability otherwise incurred by such company by reason of its failure or neglect to deliver such accounts and particulars or to comply with such notices; and nothing in this subsection shall affect the right of the Board to make any, additional assessment under the provisions of section 36 of this Act.

36. Additional assessments

(1) If the Board discovers or is of the opinion at any time that, with respect to any company liable to tax, tax has not been charged and assessed upon the company or has been charged and assessed upon the company at a less amount than that which ought to have been charged and assessed for any accounting period of the company, the Board may within six years after the expiration of that accounting period and as often as may be necessary, assess such company with tax for that accounting period at such amount or additional amount as in the opinion of the Board ought to have been charged and assessed, and may make any consequential revision of the tax charged or to be charged for any subsequent accounting period of the company.

(2) Where a revision under subsection (1) of this section results in a greater amount of tax to be charged than has been charged or would otherwise be charged an additional assessment, or an assessment for any such subsequent accounting period shall be made accordingly, and the provisions of this Act as to notice of assessment, objection, appeal and other proceedings under this Act shall apply to any such assessment or additional assessment and to the tax charged thereunder.

(3) For the purpose of computing under subsection (1) of this section the amount or the additional amount of tax for any accounting period of a company which ought to have been charged, all relevant facts consistent with subsection (3) of section 43 of this Act shall be taken into account even though not known when any previous assessment or additional assessment on the company for that accounting period was being made or could have been made.

(4) Notwithstanding the other provisions of this section, where any form of fraud, wilful default or neglect has been committed by or on behalf of any company in connection with any tax imposed under this Act, the Board may, at any time and as often as may be necessary, for the purpose of recovering any loss of tax attributable to the fraud, wilful default or neglect.

[1996 No. 30]

37. Making of assessments, etc.

(1) Assessment of tax shall be made in such form and in such manner as the Board shall authorise and shall contain the names and addresses of the companies assessed to tax or of the persons in whose names any companies (with the names of such companies) have been assessed to tax, and in the case of each company for each of its accounting periods, the particular accounting period and the amount of the chargeable profits of and assessable tax and chargeable tax for that period.

(2) When any assessment requires to be amended or revised, a form of amended or revised assessment shall be made in a manner similar to that in which the original of that assessment was made under subsection (1) of this section but showing the amended or revised amount of the chargeable profits; assessable tax and chargeable tax.

(3) A copy of each assessment, and of each amended or revised assessment shall be filed in a list which shall constitute the Assessment List for the purpose of this Act.

38. Notices of assessment, etc.

(1) The Board shall cause to be served personally on or sent by registered post to each person whose name appears on an assessment in the Assessment List, a notice of assessment stating its accounting period and the amount of its chargeable profits, assessable tax and chargeable tax charged and assessed upon the company, the place at which payment of the tax should be made, and informing such company of its rights under subsection (2) of this section.

(2) If any person in whose name an assessment was made in accordance with the provisions of this Act disputes the assessment, that person may apply to the Board, by notice of objection in writing, to review and revise the assessment so made on him; and such application shall be made within 21 days from the date of service of the notice of such assessment and shall state the amount of chargeable profits of the company of the accounting period in respect of which the assessment is made and the amount of the
assessable tax and the tax which such person claims should be stated on the notice of assessment.

(3) The Board, upon being satisfied that owing to absence from Nigeria, sickness or other reasonable cause, the person in whose name the assessment was made was prevented from making the application within such period of 21 days shall, extend the period as may be reasonable in the circumstances.

(4) After receipt of a notice of objection referred to in subsection (2) of this section the Board may within such time and at such place as the Board shall specify, require the person giving the notice of objection to furnish such particulars as the Board may deem necessary, and may by notice within such time and at such place as the Board shall specify, require any person to give evidence orally or in writing resisting any matters necessary for the ascertainment of the tax payable, and the Board may require such evidence if given orally to be given on oath or if given in writing to be given by affidavit.

(5) In the event of any person assessed who has objected to in assessment made upon him agreeing with the Board as to the amount of tax liable to he assessed, the assessment shall be amended accordingly, and notice of the tax payable shall be served upon such person.

(6) If an applicant for revision under the provisions of subsection (2) of this section fails to agree with the Board the amount of the tax, the Board shall give such applicant notice of refusal to amend the assessment as desired by such applicant, and may revise the assessment to such amount as the Board may determine and give such applicant notice of the revised assessment and of the tax payable together with notice of refusal to amend the revised assessment and, wherever requisite, any reference in this Act to an assessment or to an additional assessment shall be treated as a reference to an assessment or to an additional assessment as revised under the provisions of this subsection.

39. Errors and defects in assessment and notice

(1) No assessment, warrant or other proceeding purporting to be made in accordance with the provisions of this Act shall be quashed, or deemed to be void or voidable, for want of form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of this Act or any Act amending the same, and if the company assessed or intended to be assessed or affected thereby is designated therein according to common intent and understanding.

(2) An assessment shall not be impeachable or affected —
   (a) by reason of a mistake therein as to —
      (i) the name of a company liable or of a person in whose name a company is assessed; or
      (ii) the amount of the tax;
   (b) by reason of any variance between the assessment and the notice thereof, if in cases of assessment, the notice thereof be duly served on the company intended to be assessed or on the person in whose name the assessment was to be made on a company, and such notice contains, in substance and effect, the particulars on which the assessment is made.

40. Income tax computation

(1) Notwithstanding anything to the contrary in any law, all income tax computation made under sections 28 and 31 of this Act shall be made in the currency in which the transaction was effected.

(2) Accordingly and notwithstanding anything to the contrary in any law, any assessment made under section 35(1) of this Act shall also be made in the currency in which the computation giving rise to the assessment was made.

PART VIII
Appeals

41. Appeals to Appeal Commissioners

(1) Any person (being a company or, a person in whose name a company is assessed) being aggrieved by an assessment made upon him, who has failed to agree with the Board as referred to in section 38(6) of this Act, may appeal against the assessment to the appropriate Appeal Commissioners upon giving notice in writing to the Board and to the secretary to such Commissioners within thirty days after the date of service upon him of notice of the refusal of the Board to amend the assessment as desired:

Provided that notwithstanding the lapse of such period of thirty days, by not more than a further period of sixty days, such person may appeal against the said assessment if he gives such Commissioners the particulars mentioned in paragraphs (a) to (c) inclusive of subsection (2) of this section and if he shows to their satisfaction that, owing to absence from Nigeria, sickness or other reasonable cause he was prevented from giving notice of appeal within such period of thirty days, and that there has been
no unreasonable delay on his part; and upon the Commissioners being so satisfied, such person shall
give such notice in writing to the Board and to such secretary within seven days thereof.

(2) A notice of an appeal against an assessment, to be given under subsection (1) of this section, shall
specify the following particulars—
(a) the official number of the assessment and the accounting period for which it was made;
(b) the amount of the tax charged by the assessment;
(c) the date upon which the appellant was served with notice of refusal of the Board to amend the
assessment as desired;
(d) the precise grounds of his appeal against the assessment; and
(e) an address for service of any notices, precepts or other documents to be given, by the secretary
to the appropriate Appeal Commissioners, to the appellant:

Provided that at any time the appellant may give notice to such secretary and to the Board, by
delivering the same or by registered post, of a change of such address but any such notice shall
not be valid until delivered or received.

(3) For the purposes of this section, the appropriate Appeal Commissioners and their Secretary to whom
an appellant may give notice of appeal against an assessment under subsection (1) of this section,
shall be the body of Appeal Commissioners, if any, established, under the provisions of section 53(1)
of the Companies Income Tax Act, for the area in which is situated the office of the Federal Inland
Revenue Service from which the notice of that assessment was issued.

[Cap. C21]

(4) For the purposes of this Act, the provisions of sections 54 and 55 of the Companies Income Tax Act
shall apply in like manner as they apply to the provisions of the last-mentioned Act.

(5) The provisions of subsections (5), (7), (8) and (9) of section 42 of this Act shall apply to an appeal
under this section with any necessary modifications.

(6) All appeals shall be heard in camera.

(7) The Minister may make rules prescribing the procedure to be followed with respect to precepts
and other like documents to be issued on behalf of Appeal Commissioners, for the examination of
witnesses and in the conduct of appeals before them.

(8) Pending the making of any rules under subsection (7) of this section, any rules made or to be made (or any
rules replacing any such rules) under section 55(12) of the Companies Income Tax Act shall apply to any
appeal or to any such procedure for the purposes of this section and Act with any necessary modifications.

42. Appeals to Federal High Court against assessments

(1) Any person (being a company or a person in whose name a company is assessed) who, having
appealed against an assessment made upon him to the appropriate Appeal Commissioners under the
provisions of section 41 of this Act, is aggrieved by the decision of such Commissioners may appeal
against the assessment and such decision to the Federal High Court upon giving notice in writing to
the Board within thirty days after the date upon which such decision was given.

(2) Notwithstanding the lapse of such period of thirty days by not more than a further period of sixty days,
such person may appeal against the said assessment and decision if he shows to the satisfaction of the
judge that, owing to absence from Nigeria, sickness or other reasonable cause he was prevented from
giving notice of appeal within such period of thirty days, and that there has been no unreasonable
delay on his part; and upon the judge being so satisfied such person shall give such notice in writing to
the Board within seven days thereof.

(3) Where no appropriate body of Appeal Commissioners has been appointed with jurisdiction to hear an
appeal, against an assessment made upon any person, under the provisions referred to in subsection
(3) of section 41 of this Act, such person being aggrieved by the assessment and having failed to agree
with the Board as referred to in subsection (6) of section 38, may appeal against the assessment to
the Federal High Court upon giving notice in writing to the Board within thirty days after the date
of service upon him of notice of the refusal of the Board to amend the assessment as desired and the
provisions of subsection (2) of this section, so far as they are applicable, shall apply.

(4) If the Board is dissatisfied with a decision of any Appeal Commissioners, it may appeal against the
decision to the Federal High Court upon giving notice in writing to the other party to the appeal
under section 41 of this Act upon which such decision was given, within thirty days after the date
upon which such decision was given and the provisions of this section, so far as they are applicable,
shall apply to any such appeal to the Federal High Court by the Board.
(5) Every company appealing shall appoint an authorised representative who shall attend before the court in person on the day and at the time fixed for the hearing of its appeal, but if it be proved to the satisfaction of the judge that owing to absence from Nigeria, sickness or other reasonable cause any duly appointed representative is prevented from attending in person at the hearing of the company's appeal on the day and at the time fixed for that purpose, the judge may postpone the hearing of the appeal, for such reasonable time as he thinks necessary for the attendance of the appellant's representative, or he may admit the appeal to be made by any other agent, clerk or servant of the appellant, on its behalf or by way of written statement.

(6) Twenty-one clear days' notice shall, unless rules made hereunder otherwise provide, be given to the Board of the date fixed for the hearing of the appeal.

(7) The onus of proving that the assessment complained of is excessive shall be on the appellant.

(8) The judge may confirm, reduce, increase or annul the assessment or make such order thereon as to him may seem fit.

(9) Notice of the amount of tax payable under the assessment as determined by the judge shall be served by a duly authorised representative of the Board either personally on or by registered post to, the appellant.

(10) Notwithstanding anything contained in section 47 of this Act, if in any particular case, the judge from information given at the hearing of the appeal, is of the opinion that the tax may not be recovered, he may on application being made by or on behalf of the Board require the appellant to furnish within such time as may be specified security for payment of the tax and if such security is not given within the time specified the tax assessed shall become payable and recoverable forthwith.

(11) All appeals shall be heard in camera, unless the judge shall, on the application of the appellant, otherwise direct.

(12) The costs of the appeal shall be in the discretion of the judge hearing the appeal and shall the judge fix a sum.

(13) (a) The Chief Judge of the Federal High Court may make rules providing for the method of tendering evidence before a judge on appeal, the conduct of such appeals and the procedure to be followed by a judge upon stating a case for the opinion of the Court of Appeal.

(b) Pending the making of any rules under this subsection, the rules applicable in civil appeal cases from Magistrates Court to the High Court of Lagos State shall apply to any appeal or to any such procedure for the purposes of this section and Act with any necessary modifications.

(14) An appeal against the decision of the judge shall lie to the Court of Appeal—
(a) at the instance of the appellant where the decision of the judge is to the effect that the correct assessment of tax is in the sum of ₦1,000 or upwards; and
(b) at the instance of the Board where the decision of the judge is in respect of a matter in which the Board claimed that the correct assessment of tax was in the sum of ₦1,000 or upwards.

43. Assessment to be final and conclusive

(1) Where no valid objection or appeal has been lodged within the time limited by section 38, 41 or 42 of this Act, as the case may be, against an assessment as regards the amount of the tax assessed thereby, or where the amount of the tax has been agreed to under subsection (5) of section 38 of this Act, or where the amount of the tax has been determined on objection or revision under subsection (6) of section 38 of this Act, or on appeal, the assessment as made, agreed to, revised or determined on appeal, as the case may be, shall be final and conclusive for all purposes of this Act as regards the amount of such tax, and if the full amount of the tax in respect of any such final and conclusive assessment is not paid within the appropriate period or periods prescribed in this Act, the provisions thereof relating to the recovery of tax, and to any penalty under section 42 of this Act, shall apply to the collection and recovery thereof subject only to the set-off of the amount of any tax repayable under any claim, made under any provisions of this Act, which has been agreed to by the Board or determined on any appeal against a refusal to admit any such claim.

(2) Where an assessment has become final and conclusive, any tax overpaid shall be repaid.

(3) Nothing in section 38 of this Act or in this Part shall prevent the Board from making any assessment or additional assessment to tax for any accounting period which does not involve re-opening any issue on the same facts which has been determined for that accounting period, under subsection (5)
or (6) of section 38 of this Act by agreement or otherwise or on appeal.

PART IX
Collection, recovery and repayment of tax

44. Procedure in cases where objection or appeal is pending
Collection of tax shall in cases where notice of an objection or an appeal has been given remain in abeyance, any pending proceedings for any instalment thereof being stayed until such objection or appeal is determined but the Board may in any such case enforce payment of that portion of the tax (if any) which is not in dispute.

45. Time within which payment is to be made
(1) Subject to the provisions of section 44 of this Act, tax for any accounting period shall be payable in equal monthly instalment together with a final instalment as provided in subsection (4) of this section.
(2) The first monthly payment shall be due and payable not later than the third month of the accounting period and shall be in an amount equal to one-twelfth or, where the accounting period is less than a year, in an amount equal to equal monthly proportion, of the amount of tax estimated to be chargeable for such accounting period in accordance with section 33 (1) of this Act.
(3) Each of the remainder of monthly payments to be made subsequent to the payment under subsection (2) of this section shall be due and payable not later than the last day of the month in question and shall be in an amount equal to the amount of tax estimated to be chargeable for such period by reference to the latest returns submitted by the company in accordance with section 33(2) of this Act less so much as has already been paid for such accounting period divided by the number of such of the monthly payments remaining to be made in respect of such accounting period.
(4) A final statement of tax shall be due and payable within 21 days after the service of the notice of assessment of tax for such accounting period, and shall be the amount of the tax assessed for that accounting period less so much thereof as has already been paid under subsection (2) and (3) of this section or is the subject of proceedings.
(5) Any instalments on account of tax estimated to be chargeable shall be treated as tax charged and assessed for the purposes of sections 46 and 48 of this Act.
(6) For the purposes of subsection (1) of this section, the conversion of the timing of payments of tax to provide for the making of monthly payments shall be given effect to as set out in the (Third Schedule) of this Act.

46. Penalty for non-payment of tax and enforcement of payment
(1) If any instalment of tax due and payable pursuant to section 41 is not paid within the appropriate time limit prescribed in section 45 of this Act-
(a) a sum equal to five per cent of the amount of the instalment of tax due and payable shall be added thereto, the provisions of this Act relating to the collection and recovery of tax shall apply to the collection and recovery of such sum;
(b) the Board shall cause to be served a demand note upon the company assessed or upon the person in whose name the company is assessed; and if payment is not made within one month from the date of the service of such demand note, the Board may proceed to enforce payment as hereinafter provided;
(c) a penalty imposed under this subsection shall not be deemed to be part of the tax paid for the purpose of any of the provisions of this Act, other than those relating to enforcement and collection of any tax.
(2) Any company or person in whose name the company is assessed who without lawful justification or excuse, the proof whereof shall lie on the company or such person assessed, fails to pay the tax within the period of one month prescribed in subsection (1)(b) of this section, shall be guilty of an offence.
(3) The Board may, for any good cause shown, remit the whole or any part of the penalty due under subsection (1) of this section.

47. Collection of tax after determination of objection or appeal
Where payment of tax in whole or in part has been held over pending the result of a notice of objection or of appeal, the tax outstanding under the assessment as determined on such objection or appeal as the case may be shall be payable forthwith as to any part thereof in proceedings stayed pending such determination and as to the balance thereof within one month from the date of service on the, company assessed, or on the person in whose name the company is assessed, of the notification of the tax payable, and if such
balance is not paid within such period the provisions of section 42 of this Act shall apply.

48. **Suit for tax by the Board**
   (1) Tax may be sued for and recovered in a court of competent jurisdiction at the place at which payment should be made, by the Board in its official name with full costs of suit from the company assessed to such tax or from the person in whose name the company is assessed to such tax as a debt due to the Government of the Federation.
   (2) For the purposes of this section, a court of competent jurisdiction shall include a magistrate's court, which court is hereby invested with the necessary jurisdiction, if the amount claimed in any suit does not exceed the amount of the jurisdiction of the magistrate concerned with respect to personal suits.
   (3) In any suit under subsection (1) of this section the production of a certificate signed by any person duly authorised by the Board giving the name and address of the defendant and the amount of tax due by the defendant shall be sufficient evidence of the amount so due and sufficient authority for the court to give judgment for the said amount.

49. **Relief in respect of error or mistake**
   (1) If any person who has paid tax for any accounting period alleges that any assessment, made upon him or in name for that period, was excessive by reason of some error or mistake in the accounts, particulars or other written information supplied by him to the Board for the purpose of the assessment, such person may at any time, not later than six years after the end of the accounting period in respect of which the assessment was made, make an application in writing to the Board for relief.
   (2) On receiving any such application the Board shall inquire into the matter and subject to the provisions of this section shall by way of repayment of tax give such relief in respect of the error or mistake as appears to the Board to be reasonable and just.
   (3) No relief shall be given under this section in respect of an error or mistake as to the basis on which the liability of the applicant ought to have been computed where such accounts, particulars or information was in fact made or given on the basis or in accordance with the practice of the Board generally prevailing at the time when such accounts, particular or information was made or given.
   (4) In determining any application under this section the Board shall have regard to all the relevant circumstances of the case, and in particular shall consider whether the granting of relief would result in the exclusion from charge to tax of any part of the chargeable profits of the applicant, and for this purpose the Board may take into consideration the liability of the applicant and assessments made upon him in respect of other years.
   (5) No appeal shall lie from a determination of the Board under this section, which determination shall be final and conclusive.

50. **Repayment of tax**
   (1) Save as is otherwise in this Act expressly provided, no claim for the repayment of any tax overpaid shall be allowed unless it is made in writing within six years next after the end of the accounting period to which it relates and if the Board disputes any such claim it shall give to the claimant notice of refusal to admit the claim and the provisions of sections 36 and 37 of this Act shall apply with any necessary modifications.
   (2) The Board shall give a certificate of the amount of any tax to be repaid under any of the provisions of this Act or under any order of a court of competent jurisdiction and upon the receipt of the certificate, the Accountant-General of the Federation shall cause repayment to be made in conformity therewith.

PART X

**Offences and penalties**

51. **Penalty for offences**
   (1) Any person guilty of an offence against this Act or of any rule made thereunder for which no other penalty is specifically provided, shall be liable to a fine of ₦10,000, and where such offence is one under subsection (1) of section 24 of this Act, or is a failure to submit a return under section 33 of this Act or is a failure, arising from the provisions of Part VI of this Act, to deliver accounts, particulars or information or to keep records required, a further sum of ₦2,000 for each and every day during which such offence or failure continues, and in default of payment to imprisonment for six months, the liability for such further sum to commence from the day following the conviction, or from such day thereafter as the court may order.
   (2) Any person who —
(a) fails to comply with the requirements of a notice served on him under this Act; or
(b) having a duty so to do, fails to comply with the provisions of section 30 of this Act; or
(c) without sufficient cause fails to attend in answer to a notice or summons served on him under this Act or having attended fails to answer any question lawfully put to him; or
(d) fails to submit any return required to be submitted by section 29 of this Act in accordance with that section or in accordance with that section and section 34 of this Act,

shall be guilty of an offence.

(3) Any offence in respect of which a penalty is provided by subsection (1) of this section shall be deemed to occur in Lagos.

52. Penalty for making incorrect accounts, etc.

(1) Every person who without reasonable excuse —
(a) makes up or causes to be made up any incorrect accounts by omitting or understating any profits or overstating any losses of which he is required by this Act to make up accounts; or
(b) prepares or causes to be prepared any incorrect schedule required to be prepared by section 30 of this Act by overstating any expenditure or any incorrect statement required to be prepared by section 30 of this Act by overstating any royalties or other sums or by omitting or underscoring any amounts repaid, refunded, waived or released; or
(c) gives or causes to be given any incorrect information in relation to any matter or thing affecting his liability to tax,

shall be guilty of an offence and shall be liable to a fine of $1,000 and double the amount of tax which has been undercharged in consequence of such incorrect accounts, schedule, statement or information, or would have been so undercharged if the accounts, schedule, statement or information had been accepted as correct.

(2) No person shall be liable to any penalty under this section unless the complaint concerning such offence was made at any time within six years after the end of the accounting period in respect of which the offence was committed.

(3) The Board may compound any offence under this section, and may before judgment stay or compound any proceedings thereunder.

53. False statements and returns

(1) Any person who —
(a) for the purpose of obtaining any deduction, rebate, reduction or repayment in respect of tax for himself or for any other person, or who in any return, account, particulars or statement made or furnished with reference to tax, knowingly makes any false statement or false representation, or forges or fraudulently alters or used, or fraudulently lends, or allows to be used by any other person any receipt or token evidencing payment of the tax under this Act; or
(b) aids, abets, assists, counsels, incites or induces any other person —
(i) to make or deliver any false return or statement under this Act,
(ii) to keep or prepare any false accounts or particulars affecting tax, or
(iii) unlawfully to refuse or neglect to pay tax,

shall be guilty of an offence and shall be liable to a fine of $1,000 and treble the amount of tax for which the person assessable is liable under this Act for the accounting period in respect of or during which the offence was committed, or to imprisonment for six months, or to both such fine and imprisonment.

(2) The Board may compound any offence under this section and with the leave of the court may before judgment stay or compound any proceedings thereunder.

54. Penalty for failure to withhold tax

(1) Any person who, being required to deduct withholding tax under this Act, fails to deduct or, having deducted, fails to remit to the Federal Inland Revenue Service within 30 days from the date the amount was deducted or the time the duty to deduct arose shall be guilty of an offence and liable on conviction to a fine of 200% of the tax not withheld or not remitted plus interest at the prevailing commercial rate.

[1996 No. 31]

(2). The relevant tax authority shall cause to be served on or sent by registered post to any person who
fails to withhold or, if withheld, fails to remit the amount required to be withheld, a notice stating the amount of tax not withheld or not remitted and the place at which payment should be made, and the provisions of this Act relating to tax assessment and recovery shall apply.

55. **Penalties for offences by authorised and unauthorised persons**

   (1) Any person who —

   (a) Being a member of the Board charged with the due administration of this Act or any assistant employed in connection with the assessment and collection of the tax who—

   (i) demands from any person an amount in excess of the authorised assessment of the tax payable;

   (ii) withholds for his own use or otherwise any portion of the amount of tax collected;

   (iii) renders a false return, whether verbal or in writing, of the amount of tax collected or received by him;

   (iv) defrauds any person, embezzles any money, or otherwise uses his position so as to deal wrongfully either with the Board or any other individual; or

   (b) Not being authorised under this Act to do so collects or attempts to collect the tax under this Act, shall be guilty of an offence and be liable to a fine of ₦600 or to imprisonment for three years or both.

56. **Deduction of tax at source**

   (1) Income tax assessable on any company, partnership or person (whether or not resident in Nigeria) who provides petroleum operation services and related activities to a company carrying on petroleum operations in Nigeria, whether or not an assessment has been made, shall be recoverable from any payment (whether or not made in Nigeria) made by any person to such company partnership or person.

   (2) For the purpose of this section, the rate at which tax is to be deducted and the nature of the activities and services for which a company making payment is to deduct tax at the date when the payment is made or credited, whichever first occurs, shall be as specified in Government Notice No. 450, Official Gazette No. 34 Vol. 72 of 27 June, 1985 or any Government Notice replacing it.

   (3) A company which has deducted tax under this section shall forward to the Board the amount of tax deducted and shall also forward a statement showing the name and address of the person who suffered the tax deduction and the nature of activities or services in respect of which any payment was made.

   (4) Income tax recovered under the provisions of this section by deduction from payments made to a company, partnership or person shall be set-off for the purposes of collection against tax charged on such company, partnership or persons by an assessment: provided that the total of such deductions does not exceed the amount of the assessment.

57. **Tax to be payable notwithstanding any proceedings for penalties**

   The institution of proceedings for or the imposition of, a penalty, fine or term of imprisonment under this Act shall not relieve any person from liability to payment of any tax for which he is or may become liable.

58. **Prosecution to be with the sanction of the Board**

   No prosecution in respect of an offence under section 5, 52, 53 or 55 of this Act may be commenced, except at the instance of or with the sanction of the Board.

59. **Savings for criminal proceedings**

   The provisions of this Act shall not affect any criminal proceedings under any other Act or law.

PART XI

Miscellaneous

60. **Restrictions on effects of Personal Income Tax Act and other Acts**

   No tax shall be charged under the provisions of the Personal Income Tax Act or any other Act in respect of any income or dividends paid out of any profits which are taken into account, under the provisions of this Act, in the calculation of the amount of any chargeable profits upon which tax is charged, assessed and paid under the provisions of this Act.

   [Cap P8]

61. **Double taxation arrangements with other territories**

   (1) If the Minister by order declares that arrangements specified in the order have been made with the Government of territory outside Nigeria with a view to affording relief from double taxation in relation to tax imposed under the provisions of this Act and any tax of a similar character imposed by the laws of that territory, and that it is expedient that those arrangements should have effect, the
arrangements shall have effect notwithstanding anything in any enactment.

(2) The Minister may make rules for carrying out the provisions of any arrangements having effect under this section.

(3) An order made under the provisions of subsection (1) of this section may include provisions for relief from tax for accounting periods commencing or terminating before the making of the order and provisions as to income (which expression includes profits) which is not itself liable to double taxation.

(4) Where, before the publications of this Act in the Federal Gazette upon enactment, any order has been made under the provisions of section 33 of the Income Tax Act and the arrangements specified in that order, with any modifications, are expressed to apply to a tax in a territory outside Nigeria and to income tax in Nigeria and to any other taxes of a substantially similar character either imposed in that territory or Nigeria or imposed by either contracting party to any such arrangements after those arrangements came into force and—

[Cap. 85 of the 1958 Laws of Nigeria]

(a) such order was made before the 1st day of January, 1958, then, for the purposes of this Act, that order shall be deemed to have been made under this section on that day and those arrangements shall have effect, in Nigeria, as respects tax for any accounting period; or

(b) such order was made on a day after the year 1957, then, for the purposes of this Act, that order shall be deemed to have been made under this section on that day and the arrangements specified therein shall have effect, in Nigeria, as respects tax for any accounting period beginning on or after the date when those arrangements come into force and for the unexpired portion of any accounting period current at that date;

and where any arrangements, to which this subsection applies, contain a provision for exchange of information with the Commissioner of Income Tax or the Commissioner as defined in section 2 of the Income Tax Act then the order, with respect to those arrangements, as deemed to have been made under this section, shall be deemed to provide for such exchange with the Chairman of the Board as respects tax.

[Cap. 85 of the 1958 Laws of Nigeria]

5) The Minister may by order replace or vary any order deemed to have been made under this section for the purposes of this Act, without otherwise affecting such last-mentioned order for the purpose of any other Act.

62. Method of calculating relief to be allowed for double taxation

(1) The provisions of this section shall have effect where, under arrangements having effect under section 61 of this Act, foreign tax payable in respect of any income in the territory with the Government of which the arrangements are made is to be allowed as a credit against tax payable in respect of that income in Nigeria; and in this section the expression “foreign tax” means any tax payable in that territory which, under the arrangements, is to be so allowed, and “income” means that part of the profits of any accounting period which is liable to both tax and foreign tax, before the deduction of any tax, foreign tax, credit therefor or relief granted under subsection (6) of this section.

(2) The amount of the credit admissible to any company under the terms of any such arrangements shall be set off against the tax chargeable upon that company in respect of the income, and where that tax has been paid the amount of the credit may be repaid to that company or carried forward against the tax chargeable upon that company of any subsequent accounting period.

(3) The credit for an accounting period shall not exceed whichever is the less of the following amounts, that is to say—

(a) The amount of the foreign tax payable on the income, or

(b) The amount of the difference between the tax chargeable under this Act (before allowance of credit under, any arrangements having effect under section 61 of this Act) and the tax which would be so chargeable if the income were excluded in computing profits.

(4) Without prejudice to the provisions of subsection (3) of this section, the total credit to be allowed to a company for any accounting period for foreign tax under all arrangements having effect under section 61 of this Act shall not exceed the total tax which would be ultimately borne by that company, for that accounting period, if no such credit had been allowed.

(5) Where the income includes a dividend and under the arrangements foreign tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering if any, and if so what, credit is to be given against tax in respect of the dividend, the amount of the income
shall be increased by the amount of the foreign tax not so chargeable which falls to be into account in computing the amount of the credit.

(6) Where the amount of the foreign tax attributable to the income exceeds the credit therefor computed under subsection (3) of this section, then the amount of that income, to be included in computing profits for any purposes of this Act other than that of subsection (3) of this section, shall be taken to be the amount of that income increased by the amount of the credit therefor after deduction of the foreign tax.

(7) Where —
(a) the arrangements provide, in relation to dividends of some classes, but not in relation to dividends of other classes, that foreign tax not chargeable directly or by deduction in respect of dividends is to be taken into account in considering if any, and if so what, credit is to be given against tax in respect of the dividends; and
(b) a dividend is paid which is not of a class in relation to which the arrangements so provide,

then, if dividend is paid to a company which controls, directly or indirectly, not less than half of the voting power in the company paying the dividends, credit shall be allowed as if the dividend were a dividend of a class in relation to which the arrangements so provide.

(8) Any claim for an allowance by way of credit shall be made not later than three years after the end of the accounting period, and in the event of any dispute as to the amount allowable the Board shall give to the claimant notice of refusal to admit the claim which shall be subject to appeal in like manner as an assessment.

(9) Where the amount of any credit given under the arrangements is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in Nigeria or elsewhere, nothing in this Act limiting the time for the making of assessments or claims for repayment of tax shall apply to any assessment or claim to which the adjustment gives rise, being an assessment or claim made not later than three years from the time when all such assessments, adjustments and other determinations have been made whether in Nigeria or elsewhere, as are material in determining whether any, and if so what, credit falls to be given.

(10) Where a company is not resident in Nigeria throughout an accounting period no credit shall be admitted in respect of any income included in the profits of that company of that period.

63. **Power to amend the First Schedule**

At any time after the enactment of this Act, the Minister may by order delete any of the powers or duties specified in the First Schedule or include therein additional powers or duties and may do so by amendment of such Schedule or by substituting a new Schedule therefor.

**FIRST SCHEDULE**

[Section 3 (e), 4 and 62]

*Powers or duties to be performed or exercised by the Board alone*

The powers or duties specified in or imported into the following sections of this Act (other than such part of any powers or duties as consist of a power or duty to make enquiries or other incidental or preparatory powers or duties of a like nature) shall only be performed or excised by the Board, who shall have no power to authorise any other person to perform the same, namely, powers, or duties in sections 3 (b), (d) and (e), 6 (2), 10 (1) (k), 13 (3) (c), 15, 31 (2), 33 (1), 37 (1), 49, 52, 53 and 58 of this Act.

**SECOND SCHEDULE**

[Sections 10, 20 and 30]

*Capital Allowances*

**ARRANGEMENT OF PARAGRAPHS**

1. Interpretation.
3. Owner and meaning of relevant interest.
4. Sale of buildings, etc.
1. Interpretation

(1) For the purposes of this schedule, unless the context otherwise requires — “concession” includes an oil exploration licence, an oil prospecting licence, an oil mining lease, any right, title or interest in or to petroleum oil in the ground and any option of acquiring any such right, title or interest; “lease” includes an agreement for a lease where the term to be covered by the lease has begun, any tenancy and any agreement for the letting or hiring out of an asset, but does not include a mortgage and all cognate expression including “leasehold interest” shall be construed accordingly and

(a) where, with the consent of the lessor, a lessee of any asset remains in possession thereof after the termination of the lease without a new lease being granted to him, that lease shall be deemed for the purposes of this Schedule to continue so long as he remains in possession as aforesaid; and

(b) where, on the termination of a lease of any asset, a new lease of that asset is granted to the lessee, the provisions of this Schedule shall have effect as if the second lease were a continuation of the first lease;

“qualifying expenditure” means, subject to the express provisions of this Schedule, expenditure incurred in an accounting period, which is —

(a) capital expenditure (hereinafter called “qualifying plant expenditure”) incurred on plant, machinery or fixtures;

(b) capital expenditure (hereinafter called “qualifying pipeline and storage expenditure”) incurred on pipelines and storage tanks;

(c) capital expenditure (hereinafter called “qualifying building expenditure”), other than expenditure which is included in paragraphs (a), (b) or (d) of this interpretation, incurred on the construction of buildings, structures or works of a permanent nature; or

(d) capital expenditure (hereinafter called “qualifying drilling expenditure”) other than expenditure which is included in paragraph (a) or (b) of this interpretation, incurred in connection with, petroleum operations in view on —

(i) the acquisition of, or of rights in or over, petroleum deposits;

(ii) searching for or discovering and testing petroleum deposits, or winning access thereto, or

(iii) the construction of any works or buildings which are likely to be of little or no value when the petroleum operations for which they were constructed cease to be carried on:

Provided that, for the purposes of this definition qualifying expenditure shall not include any sum which may be deducted under the provisions of section 10 of this Act.

(2) For the purposes of this interpretation of qualifying expenditure, where expenditure is incurred by a company before its first accounting period and such expenditure would have fallen to be treated as qualifying expenditure (ascertained without the qualification contained in the foregoing proviso) if it had been incurred by the company on the first day of its first accounting period, and—

(a) that expenditure is incurred in respect of an asset owned by the company then such expenditure shall be deemed to be qualifying expenditure incurred by it on that day; or

(b) that expenditure is incurred in respect of an asset which has been disposed of by the company before the beginning of its first accounting period then any loss suffered by the company on the disposal of such asset shall be deemed to be qualifying petroleum expenditure incurred by the company on that day and be deemed to have brought into existence an asset owned by the
company in use for the purposes of petroleum operations carried on by the company, any profit realised by the company on such disposal shall be treated as income of the company of its first accounting period for the purposes of subsection (1)(a) of section 9 of this Act.

2. **Provisions relating to qualifying petroleum expenditure**
   (1) For the purposes of this Schedule where—
   (a) expenditure has been incurred before its first accounting period and such expenditure would have been treated as such qualifying petroleum expenditure (ascertained without the qualification contained in the proviso in the interpretation of qualifying expenditure) if it had been incurred in that first accounting period; and
   (b) such expenditure has not brought into existence and asset,
   then such expenditure (ascertained in the case of sub-paragraph (1) (a) of this paragraph without such qualification) shall be deemed to have brought into existence an asset owned by the company incurring the expenditure and in use for the purposes of such petroleum operations.

(2) For the purposes of this Schedule, an asset in respect of which qualifying drilling expenditure has been incurred by any company for the purposes of petroleum operations carried on by it during any accounting period of the company, and which has not been disposed of, shall be deemed not to cease to be used for the purposes of such operations so long as such company continues to carry on such operations.

(3) So much of any qualifying petroleum expenditure incurred on the acquisition of rights in or over petroleum deposits and on the purchase of information relating to the existence and extent of such deposits as exceeds the total of the original cost of acquisition of such rights and of the cost of searching for, discovering and testing such deposits prior to the purchase of such information shall be left out of account for the purposes of this Schedule:

Provided that where the company which originally incurred such costs was a company which carried on a trade or business consisting, as to the whole or part thereof, in the acquisition of such rights or information with a view to the assignment or sale thereof, the price paid on such assignment or sale shall be substituted for the aforementioned costs.

3. **Owner and meaning of relevant interest**
   (1) For the purposes of this Schedule, where an asset consists of a building structure or works, the owner thereof shall be taken to be the owner of the relevant interest in such building, structure or works.

   Subject to the provisions of this paragraph, in this Schedule, the expressions "the relevant interest" means, in relation to any expenditure incurred on the construction of a building, structure or works to which the company which incurred such expenditure was entitled when it incurred the expenditure.

   Where, when a company incurs qualifying building expenditure or qualifying drilling expenditure on the construction of a building, structure or works, the company is entitled to two or more interests therein, and one of those interests is an interest which is reversionary on all the others, that interest shall be the relevant interest for the purposes of this Schedule.

4. **Sale of buildings, etc.**
   Where capital expenditure has been incurred on the construction of a building, structure or works and thereafter the relevant interest company which buys that interest shall be deemed, for all the purposes of this Schedule except the granting of petroleum investment allowance, to have incurred, on the date when the purchase price became payable, capital expenditure on the construction thereof equal to the price paid by it for such interest or to the original cost of construction, whichever is the less:

Provided that—
   (a) Where such relevant interest is sold before the building, structure or works has been used, the foregoing provisions of this paragraph shall have effect with respect to such sale with the omission of the words "except the granting of investment allowance" and the original cost of construction shall be taken to be the amount of the purchase price on such sale;

   (b) Where any such relevant interest is sold more than once before the building, structure or works is used, the provisions of sub-paragraph (a) shall have effect only in relation to the last of those sales.

5. **Petroleum investment allowance**
   (1) For the purposes of this Act and subject to the provisions of this Schedule, where a company has incurred any qualifying capital expenditure wholly, exclusively, and necessarily and reasonably for the purpose of petroleum
operation carried out by it, there shall be due to that company, for the accounting period in which that asset was first used or, for purposes of such operations, an allowance (in this Schedule called "Petroleum Investment Allowance") at the appropriate rate per cent set forth in Table 1 to this schedule, of such expenditure.

(2) For the purpose of this Act, the Petroleum Investment Allowance shall be added to the annual allowance computed under paragraph 6 of this Schedule and shall be subject to the same rules under this Act.

6. Annual allowance
(1) Subject to the provisions of this Schedule, where in any accounting period, a company owning any assets has incurred in respect thereof qualifying expenditure wholly, necessarily and exclusively for the purposes of petroleum operations carried on by it, there shall be due to that company as from the accounting period in which such expenditure was incurred, an allowance (in this Act referred to as "an annual allowance") at the appropriate rate per centum specified in Table II of this Schedule.

(2) Notwithstanding the provisions of sub-paragraph (1) of this paragraph, there shall be retained in the books, in respect of each asset 1% of the initial cost asset which may only be written off in accordance with sub-paragraph (3) of this paragraph.

(3) Any asset or part thereof in respect of which capital allowances have been granted may only be disposed of on the authority of a Certificate of Disposal issued by the Minister or any person authorised by him.

(4) Any unrecovered capitalised expenditure prior to 1 April, 1977 shall be deemed to have been capitalised with effect from 1 April, 1977 and shall, as provided for in sub-paragraph (1) of this paragraph, be amortised in five equal instalments and shall be subject to the provisions of sub-paragraphs (2) and (3) of this paragraph.

7. Asset to be in use at end of accounting period
An initial or an annual allowance in respect of qualifying expenditure incurred in respect of any asset shall only be due to a company for any accounting period if at the end of such accounting period it was the owner of that asset and the asset was in use for the purposes of the petroleum operations carried on by it.

8. Balancing allowances
Subject to the provisions of this Schedule, where in any accounting period of a company, the company owning any asset in respect of which it has incurred qualifying expenditure wholly and exclusively for the purposes of petroleum operations carried on by it, disposes of that asset an allowance (hereinafter called "a balancing allowance") shall be due to that company for that accounting period of the excess of the residue of that expenditure, at the date such asset is disposed of, over the value of that asset at that date:

Provided that a balancing allowance shall only be due in respect of such asset if immediately prior to its disposal it was in use by such company for the purposes of the petroleum operations for which such qualifying expenditure was incurred.

9. Balancing charges
Subject to the provisions of this Schedule, where in any accounting period of a company, the company owning any asset in respect of which it has incurred qualifying expenditure wholly and exclusively for the purposes of petroleum operations carried on by it, disposes of that asset, the excess (hereinafter called "a balancing charge") of the value of that asset, at the date of its disposal, over the residue of that expenditure at that date shall, for the purposes of subsection (1)(a) of section 9 of this Act, be treated as income of the company of that accounting period:

Provided that a balancing charge in respect of such asset shall only be so treated if immediately prior to the disposal of that asset it was in use by such company for the purposes of the petroleum operations for which such qualifying expenditure was incurred and shall not exceed the total of any allowances due under the provisions of this Schedule, in respect of such asset.

10. Residue
The residue of qualifying expenditure, in respect of any asset, at any date, shall be taken to be the total qualifying expenditure incurred on or before that date, by the owner thereof at that date, in respect of that asset, less the total of any annual allowances due to such owner, in respect of that asset, before that date.

11. Meaning of “disposed of”
Subject to any express provision to the contrary, for the purposes of this Schedule—
(a) a building, structure or works of a permanent nature is disposed of if any of the following events occur-
(i) the relevant interest is sold, or
(ii) that interest, being an interest depending on the duration of a concession, comes to an end on the coming to an end of that concession, or
(iii) that interest, being a leasehold interest, comes to an end otherwise than on the company entitled thereto acquiring the interest which is reversionary thereon, or
(iv) the building, structure or works of a permanent nature are demolished or destroyed or, without being demolished or destroyed, cease altogether to be used for the purposes of petroleum operations carried on by the owner thereof;

(b) plant, machinery or fixtures are disposed of if they are sold, discarded or cease altogether to be used for the purposes of petroleum operations carried on by the owner thereof;

(c) assets in respect of which qualifying drilling expenditure is incurred are disposed of if they are sold or if they cease to be used for the purposes of the petroleum operations of the company incurring the expenditure either on such company ceasing to carry on all such operations or on such company receiving insurance or compensation monies therefor.

12. Value of an asset
(1) The value of an asset at the date of its disposal shall be the net proceeds of the sale thereof or of the relevant interest therein, or, if it was disposed of without being sold, the amount which, in the opinion of the Board, such asset or the relevant interest therein, as the case may be, would have fetched if sold in the open market at that date, less the amount of any expenses which the owner might reasonably be expected to incur if the asset were so sold.

(2) For the purpose of this paragraph, if an asset is disposed of in such circumstances that insurance or compensation monies are received by the owner thereof, the asset or the relevant interest therein, as the case may be, shall be treated as having been sold and as though the net proceeds of the insurance or compensation monies were the net proceeds of the sale thereof.

13. Apportionment
(1) Any reference in this Schedule to the disposal, sale or purchase of any asset includes a reference to the disposal, sale or purchase of that asset, as the case may be, together with any other asset, whether or not qualifying expenditure has been incurred on such last-mentioned asset, and, where an asset is disposed of, sold, or purchased together with another asset, so much of the value of the assets as, on a just apportionment, is properly attributable to the first mentioned asset shall, for the purposes of this Schedule, be deemed to be the value of, or the price paid for, that asset, as the case may be. For the purposes of this sub-paragraph, all the assets which are purchased or disposed of in pursuance of one bargain shall be deemed to purchased or disposed of together notwithstanding that separate prices are or purport to be agreed for each of those assets or that there are or purport to be separate purchases or disposals of those assets.

(2) The provisions of sub-paragraph (1) of this paragraph shall apply, with any necessary modifications, to the sale or purchase of the relevant interest in any asset together with any other asset or relevant interest in any other asset.

14. Part of an asset
Any reference in this Schedule to any asset shall be construed whenever necessary as including a reference to a part of any asset (including an undivided part of that asset in the case of joint interests therein) and when so construed any necessary apportionment shall be made as may, in the opinion of the Board, be just and reasonable.

15. Extension of meaning of “in use”
(1) For the purposes of this Schedule, an asset shall be deemed to be in use during a period of temporary disuse.
(2) For the purposes of paragraphs 5, 6 and 7 of this Schedule—
(a) an asset in respect of which qualifying expenditure has been incurred by the owner thereof for the purposes of petroleum operations carried on by him shall be deemed to be in use for the purposes of such operations, between the dates hereinafter mentioned, where the Board is of the opinion that the first use to which the asset will be put by that owner incurring such expenditure will be for the purposes of such operations;
(b) the said dates shall be taken to be the date on which such expenditure was incurred and the date on which the asset is in fact first put to use:

Provided that where any allowances have been given in consequence of this sub-paragraph (2) of this paragraph and the first use to which such asset is put is not for the purposes of such operations, all such additional assessments shall be made as may be necessary to counteract the benefit obtained.
from the giving of any such allowances.

16. **Exclusion of certain expenditure**
   (1) Subject to the express provisions of this Schedule, where any company has incurred expenditure which is allowed to be deducted under any provision (other than a provision of this Schedule) of this Act, such expenditure shall not be or be treated as qualifying expenditure.
   (2) Where any company has incurred expenditure upon any ocean going oil-tanker plying between Nigeria and any other territory that expenditure shall not be treated as qualifying expenditure.

17. **Asset used or expenditure incurred partly for the purpose of petroleum operation**
   (1) The following provisions of this paragraph shall apply where either or both of the following conditions apply with respect to any asset—
      (a) The owner of the asset has incurred in respect thereof qualifying expenditure partly for the purposes of petroleum operations carried on by him and partly for other purposes;
      (b) The asset in respect of which the owner has incurred qualifying expenditure thereof is used partly for the purposes of petroleum operations carried on by such owner and partly for other purposes.
   (2) Any allowances which would be due or any balancing charges which would be treated as income if both such expenditure were incurred wholly and exclusively for the purposes of such petroleum operations and such asset were used wholly and exclusively for the purposes of such operations shall be computed in accordance with the provisions of this Schedule.
   (3) So much of the allowances and charges computed in accordance with provisions of sub-paragraph (2) of this paragraph shall be due or shall be so treated, as the case may be, as in the opinion of the Board is just reasonable having regard to all the circumstances and to the provisions of this Schedule.

18. **Disposal without change of ownership**
   Where an asset in respect of which qualifying expenditure has been incurred by the owner thereof has been disposed of in such circumstances that such owner remains the owner thereof, then, for the purposes of determining whether and, if so, in what amount, any annual or balancing allowance or balancing charge shall be made to or on such owner in respect of his use of that asset after the date of such disposal—
   (a) qualifying expenditure incurred by such owner in respect of such owner in respect of such asset prior to the date of such disposal shall be left out of account; but
   (b) such owner shall be deemed to have bought such asset immediately after such disposal for a price equal to the residue of such qualifying expenditure at the date of such disposal, increased by the amount of any balancing charge or decreased by the amount of any balancing allowance made as a result of such disposal.

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<th>Qualifying expenditure in respect of</th>
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<td>Operations in territorial waters and continental shelf areas up to and including 100 meters of water depth</td>
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</tr>
<tr>
<td>Operations in territorial waters and continental shelf areas in water path between 100 meters and 200 meters</td>
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</tr>
<tr>
<td>Operations in territorial waters and continental shelf areas beyond 200 meters of water depth........</td>
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<table>
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<tr>
<td>3rd year ..................</td>
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TABLE II — (continued)
Annual allowance .................................................. Rate per centum
4th year ................................................................................................................................. 20
5th year ................................................................................................................................. 19
6th year and after .................................................................................................................... 19

THIRD SCHEDULE
[Section 45.]

Time for payments
1. In respect of the company’s petroleum operations for the 1971 accounting period, 50% of the tax shall continue to be payable in instalment on the basis set out in section 45; the remaining 50% of the tax shall be payable in six consecutive monthly instalments on the basis set out in section 45 (6) (b), the first of such instalments being due not later than 30 September, 1971.
2. In respect of the company’s petroleum operations for the 1972 accounting period, 25% of the tax shall continue to be payable instalments on the basis set out in section 45; the remaining 75% of the tax shall be payable in monthly instalments.
3. In respect of the company’s petroleum operations for the 1973 accounting period and of each subsequent accounting period, the tax due for each such year shall be payable in monthly instalments.

FOURTH SCHEDULE
[Section 9(1) (C)]

1. Interpretation of Fourth Schedule
   For the purposes of this Schedule, unless the context otherwise requires—
   “contract capacity” means the maximum quantity of natural gas expressed in MMcf to which a customer of a company is entitled in the accounting period under an individual gas sales contract between the company and such customer;
   “gas take” means the actual quantity of natural gas expressed in MMcf actually taken or paid for by a customer in the accounting period under an individual gas sales contract between the company and a customer of the company.

   (1) The value of all chargeable natural gas in the accounting period shall be the sum of gross proceeds under individual gas sales contracts in the accounting period less the G-Factor allowance as applicable to any such individual gas sales contracts at the appropriate rate percent of such proceeds under any such individual gas sales contracts as specified in the Table to this Schedule.
   (2) G-Factor per centum in respect of factors in between the figures mentioned in the Table to this Schedule shall be calculated on pro-rata basis.

3. Power of review
   The Government of the Federation may from time to time review the G-Factor allowance specified in the Table to this Schedule.

   TABLE

<table>
<thead>
<tr>
<th>Load factor</th>
<th>G-Factor per centum</th>
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NATIONAL OIL SPILL DETECTION AND RESPONSE AGENCY (ESTABLISHMENT) ACT 2006

ARRANGEMENT OF SECTIONS

SECTION:

PART I — ESTABLISHMENT OF THE NATIONAL OIL SPILL DETECTION AND RESPONSE AGENCY

1. Establishment of the National Oil Spill Detection and Response Agency.

PART II — NATIONAL OIL SPILL RESPONSE GOVERNING BOARD, ETC.

2. Establishment of the Governing Board of the Agency.
3. Tenure of Office.
4. Cessation of Membership.

PART III — OBJECTIVES, ETC, OF THE AGENCY

5. Objectives of the Agency.
6. Functions of the Agency.
7. Special Functions of the Agency.

PART IV — DIRECTOR-GENERAL AND OTHER STAFF OF THE AGENCY, ETC.

8. Appointment of the Director-General of the Agency.
9. Other employees of the Agency.

PART V — FINANCIAL PROVISIONS

11. Fund of the Agency.
12. Expenditure of the Agency.
13. Annual estimates and accounts.
15. Power to accept gifts.
16. Power to borrow.
17. Investment.

PART VI — ESTABLISHMENT OF NATIONAL CONTROL AND RESPONSE CENTRE

18. Establishment of National Control and Response Centre.

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19. Federal Government Intervention, etc.

PART VIII — LEGAL PROCEEDINGS

20. Limitations of suits against the Agency, etc. [Cap. 379 LFN.]
22. Restriction on execution against property of the Agency.
23. Indemnity of officers.
25. Directives by the Minister, etc.
26. Regulations.
27. Interpretation.
28. Short Title.

SCHEDULES
NATIONAL OIL SPILL DETECTION AND RESPONSE AGENCY
(ESTABLISHMENT) ACT, 2006
2006 Act No. 15

An Act to provide for the establishment of the National Oil Spill Detection and Response Agency; and for related matters.

Commencement [18th day of October, 2006]

Enacted by the National Assembly of the Federal Republic of Nigeria—

PART I — ESTABLISHMENT OF THE NATIONAL OIL SPILL DETECTION AND RESPONSE AGENCY

1. (1) There is established an Agency to be known as the National Oil Spill Detection and Response Agency (in this Act referred to as ‘the Agency’) with responsibility for preparedness, detection and response to all oil spillages in Nigeria as set out in Section 5 of this Act.

(2) The Agency:
   (a) shall be a body corporate with perpetual succession and a common seal; and
   (b) may sue and be sued in its corporate name.

(3) The Headquarters of the Agency shall be in the Federal Capital Territory, Abuja and it may establish zonal offices in the States of the Federation.

PART II — NATIONAL OIL SPILL RESPONSE GOVERNING BOARD, ETC.

2. (1) There is established for the Agency a Governing Board to be known as the National Oil Spill Response Governing Board (in this Act referred to as “the Governing Board”) which shall be responsible for the formulation of policy for the Agency and act in Governing Board capacity to the Agency in the exercise of any of the functions conferred on the Agency and the Director-General by this Act.

(2) The Governing Board shall consist of:
   (a) a Chairman;
   (b) one representative each of the following Federal Ministries not below the rank of Director:
      (i) Environment;
      (ii) Defence;
      (iii) Petroleum Resources;
      (iv) Transport;
      (v) Aviation (Department of Meteorology);
      (vi) Communications;
      (vii) National Emergency Management Agency (NEMA);
      (viii) Works;
      (ix) Information and National Orientation;
      (x) Housing and Urban Development;
      (xi) the Nigerian Police;
      (xii) Oil Products Trade Section of Lagos Chamber of Commerce (OPTS);
      (xiii) Agriculture and Rural Development;
      (xiv) Water Resources; and
      (xv) Institute of Oceanography and Marine Research.

(3) The Director-General of the Agency, shall be a Member/Secretary to the Governing Board.

(4) The Chairman and other members of the Governing Board shall be appointed by the President on the recommendation of the Minister.

(5) The supplementary provision specified in the First Schedule to this Act shall have effect with respect, to the proceedings of the Governing Board and the other matters therein mentioned.

3. (1) The Chairman and members of the Governing Board shall each hold office for a period of four years in the first instance and may be re-appointed for a further term of four years and no more.
(2) A member of the Governing Board may resign his membership by notice in writing addressed to the President through the Minister and that member shall, on the date of the receipt of the notice by the President, cease to be a member.

4. (1) A member of the Governing Board may at any time be removed by the President for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct or if the President is satisfied that it is not in the interest of the Agency or the interest of the public that the member should continue in office.

Where a vacancy occurs in the membership of the Governing Board, it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his predecessor, so however that the successor shall represent the same interest as his predecessor and be appointed by the President on the recommendation of the Minister.

PART III — OBJECTIVES ETC., OF THE AGENCY

5. The objectives of the Agency shall be to co-ordinate and implement the National Oil Spill Contingency Plan for Nigeria (in this Act referred to as "the Plan") as follows:
   (a) establish a viable national operational organization that ensures a safe, timely, effective and appropriate response to major or disastrous oil pollution;
   (b) identify high-risk areas as well as priority areas for protection and clean up;
   (c) establish the mechanism to monitor and assist or where expedient direct the response, including the capability to mobilize the necessary, resources to save lives, protect threatened environment, and clean up to the best practical extent of the impacted site;
   (d) maximize the effective use of the available facilities and resources of corporate bodies, their international connections and oil spill co-operatives, that is Clean Nigeria Associates (CNA) in implementing appropriate spill response;
   (e) ensure funding and appropriate and sufficient pre-positioned pollution combating equipment and materials, as well as functional communication network system required for effective response to major oil pollution;
   (f) provide a programme of activation, training and drill exercises to ensure readiness to oil pollution preparedness and response and the management and operational personnel;
   (g) co-operate and provide advisory services, technical support and equipment or purposes of responding to major oil pollution incident in the West African sub-region upon request by any neighbouring country, particularly where a part of the Nigerian territory may be threatened;
   (h) provide support for research and development (R&D) in the local development of methods, materials and equipment for oil spill detection and response;
   (i) co-operate with the International Maritime Organization and other national, regional and international organizations in the promotion and exchange of results of research and development programme relating to the enhancement of the state-of-the art of the oil pollution preparedness and response, including technologies, techniques for surveillance, containment, recovery, disposal and clean up to the best practical extent;
   (j) establish agreements with neighbouring countries regarding the rapid movement of equipment, personnel and supplies into and out of the countries for emergency oil spill response activities;
   (k) determine and preposition vital combat equipment at most strategic areas for rapid response;
   (l) establish procedures by which the Nigerian Customs Service and the Nigerian immigration Services shall ensure rapid importation of extra Support response equipment and personnel;
   (m) develop and implement an appropriate audit system for the entire plan;
   (n) carry out such other activities as are necessary or expedient for the full discharge of its functions and the execution of the Plan under this Act.

6. (1) The Agency shall;
   (a) be responsible for surveillance and ensure compliance with all existing environmental legislation and the detection of oil spills in the petroleum sector;
   (b) receive reports of oil spillages and co-ordinate oil spill response activities throughout Nigeria;
   (c) co-ordinate the implementation of the Plan as may be formulated, from time to time, by the Federal Government;
   (d) co-ordinate the implementation of the Plan for the removal of hazardous substances as may be issued by the Federal Government;
(e) perform such other functions as may be required to achieve the aims and objectives of the Agency under this Act or any plan as may be formulated by the Federal Government pursuant to this Act.

(2) An oil spiller is by this Act to report an oil spill to the Agency in writing not later than 24 hours after the occurrence of an oil spill, in default of which the failure to report shall attract a penalty in the sum of five Hundred Thousand Naira (₦500,000.00) for each day of failure to report the occurrence.

(3) The failure to clean up the impacted site, to all practical extent including remediation, shall attract a further fine of one million Naira.

(4) Such notice in writing is deemed to have been made, if delivered at the nearest zonal office closer to the impacted site, and of the Agency, the National Control and Response Centre within the stipulated time in subsection (2).

7. The Agency shall:
   (a) ensure the co-ordination and implementation of the Plan within Nigeria including within 200 nautical miles from the baseline for which the breath of the territorial waters of Nigeria is measured;
   (b) undertake surveillance, reporting, alerting and other response activities as they relate to oil spills;
   (c) encourage regional co-operation among member States of West African sub-region and in the Gulf of Guinea for combating oil spillage and pollution in our contiguous waters;
   (d) strengthen the national capacity and regional action to prevent, control, combat and mitigate marine pollution;
   (e) promote technical co-operation between Nigeria and member States of the West African sub-region;
   (f) facilitate:
      (i) the arrival and utilization in and departure from Nigeria of ships, aircrafts and other modes of transport engaged in responding to oil pollution incidents or transporting personnel, cargo, materials and equipment required to deal with such an incident; and
      (ii) the expeditious movement into, through and out of Nigeria of personnel, cargoes, materials and equipment;
   (g) (i) The National Control and Response Centre shall for the purposes of a Tier 3 oil spill response, undertake such functions as specified under section 20 of this Act.
      (ii) The Director-General shall have the power to co-opt all the Government Ministries and Agencies mentioned under the Second Schedule to this Act, in the management of a Tier 3 or a major Tier 2 oil spill.

PART IV — DIRECTOR-GENERAL AND OTHER STAFF OF THE AGENCY, ETC.

8. (1) There shall be for the Agency, a Director-General who shall be appointed by the President on the recommendation of the Minister.
   (2) The Director-General shall be the Chief Executive and Accounting Officer of the Agency and be responsible for the execution of the policy and the day-to-day administration of the affairs of the Agency.
   (3) The Director-General so appointed shall have a minimum of 10 years cognate experience on Environmental matters.
   (4) The Director-General shall hold office:
      (a) for a term of 4 years in the first instance and may be re-appointed for a further term of 4 years and no more; and
      (b) on such terms and conditions as may be specified in his letter of appointment.

9. (1) The Agency shall appoint, such officers and other employees as it may, from time to time, deem necessary for the purpose of the Agency.
   (2) The terms and conditions of service (including remuneration, allowances, benefits and pensions) of officers and employees of the Agency shall be as determined by the Agency, subject to the approval of the National Income, Salaries and Wages Commission (NISWC).
10. (1) It is hereby declared that service in the Agency shall be approved service for the purpose of the Pensions Reforms Act and accordingly, employees of the Agency shall be entitled to pensions, gratuities and other retirement benefits as are prescribed under the Pensions Reform Act.

(2) Notwithstanding the provisions of subsection (1) of this section, nothing in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of a pension, gratuity or other retirement benefits in respect to that office.

(3) For the purpose of the application of the provisions of the Pensions Reform Act any power exercisable by the Minister or other authority of the Federal Government, other than the power to make regulations under the Pensions Reform Act, is hereby vested in and shall be exercisable by the Agency and not by any other person or authority.

PART V — FINANCIAL PROVISIONS

11. The Agency shall establish and maintain a fund into which shall be paid and credited:
(a) the take-off grant from the Federal Government;
(b) annual subvention from the Federal Government consolidated revenue;
(c) such counter-part funding as may be provided, from time to time by a State or Local Government;
(d) loans and grants-in-aid from national, bilateral and multilateral agencies;
(e) rents, fees and other internally generated revenues from services provided by the Agency; and
(f) all other sums accruing to the Agency from time to time.

12. The Agency may, from time to time, apply the proceeds of the funds established in pursuance of Section 11 of this Act:
(a) to the cost of administration of the Agency;
(b) to the paying of the emoluments, allowances and benefits of members of the Governing Board and for reimbursing members of the Governing Board or of any committee set up by the Governing Board for such expenses as may be expressed or authorized by the Governing Board;
(c) to the payment of the salaries, fees or other remuneration or allowances, gratuities and pensions, and other benefits payable to the officers and other employees of the Agency, so, however that no payment of any kind under this paragraph (except such as may be expressly authorized by the Agency), shall be made to any person who is in receipt of emoluments from the Federal or a State Government;
(d) for the development and maintenance of any property vested in or owned by the Agency; and
(e) for and in connection with all or any of its functions under this Act.

13. (1) The Agency shall, not later than 30th September in each year, submit through the Minister to the President an estimate of its expenditure and income. (including payments to the Agency) for the next succeeding year.

(2) The Agency shall keep proper accounts in respect of each year and proper records in relation to those accounts and shall cause its accounts to be audited within six months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

14. The Agency shall prepare and submit through the Minister to the Federal Executive Council, not later than six months after the end of each year, a report in such form as he may direct on the activities of the Agency during the immediate preceding year, and shall include in such report a copy of the audited accounts of the Agency for that year and the auditor's report on the accounts.

15. (1) The Agency may accept any gift of land, money or other property on such terms and conditions, if any, as may be specified by the person or organization making the gift.

(2) The Agency shall accept any gift if the conditions attached by the person or organization making the gift are not inconsistent with the functions of the Agency.

16. (1) The Agency may, from time to time, borrow by way of overdraft or otherwise such sums as it may require for the performance of its functions under this Act.

(2) The Agency shall not, without the approval of Governing Board, borrow money which exceeds at any time the amount set by the Minister.

(3) Notwithstanding subsection (1) of this Section, where the sum to be borrowed is in foreign currency, the Agency shall not borrow the sum without the prior approval of the Minister.
17. The Agency may, subject to the provisions of this Act and the conditions of any trust created in respect of any property, invest all or any of its funds in any security prescribed by the Trustee Investment Act or in such other securities as may, from time to time, be approved by the Minister.

PART VI — ESTABLISHMENT OF NATIONAL CONTROL AND RESPONSE CENTRE

18. (1) There is established for purposes of this Act, a National Control and Response Centre (in this Act referred to as “the Centre”) which shall—
   (a) act as a report processing and response co-ordinating centre for all oil spillage incidents in Nigeria;
   (b) receive all reports of oil spillages from the zonal offices and control units of the Agency;
   (c) serve as the command and control centre for compliance monitoring of all existing legislation on environmental control, surveillance for oil spill detection and monitoring and co-ordinating responses required in plan activations.

(2) The Centre shall be headed by such officer of the Agency as may be designated from time to time.

(3) The officer so designated under subsection (2) of this section shall report to the Director-General of the Agency on all activities of the Centre.

PART VI — FEDERAL GOVERNMENT INTERVENTION, ETC.

19. (1) The Agency shall—
   (a) in the event of a major or disastrous oil spill, in collaboration with other Agencies co-opt, undertake and supervise, all those provisions as set out in the Second Schedule to this Act;
   (b) assess the extent of damage to the ecology by matching conditions following the spill against what existed before (reference baseline data and ESI maps);
   (c) under-take a post-spill impact assessment to determine the extent and intensity of damage and long term effects;
   (d) advise the Federal and State Governments on possible effects on the health of the people and ensure that appropriate remedial action is taken for the restoration and compensation of the environment;
   (e) assist in mediating between affected communities and the oil spiller;
   (f) monitor the response effort during an emergency, with a view to ensuring full compliance with existing legislation on such matters;
   (g) assess any damage caused by an oil spillage;
   (h) expeditiously process and grant approval for any request made to it by an oil spiller, for the use of approved dispersant or the application of any other technology considered vital in ameliorating the effect of an oil spill;
   (i) advise and guide the response efforts as to ensure the protection of highly sensitive areas, habitats and the salvation of endangered or threatened wild life; and
   (j) monitor the clean-up operations to ensure full rehabilitant of the affected areas.

(2) The Agency shall act as the Lead Agency for all matters relating to oil spills response management and liaise with the other Agencies for the implementation of the plan, as contained in the Second Schedule.

(3) The Agency shall:
   (a) co-operate with an oil spiller in the determination of appropriate measures to prevent excessive damage to the environment and the communities;
   (b) expeditiously consider any proposal made for response effort for the oil spiller;
   (c) mobilize internal resources and also assist to obtain any outside human and financial resources that may be required to combat any oil spill; and
   (d) assist in the assessment of damage caused by an oil spillage.

(4) Notwithstanding the functions of the Agency set out under this Act the specified Federal Ministries, Extra-Ministerial Departments, Parastatals and other bodies mentioned herein shall be charged with the following responsibilities set out under this Section as provided in the second schedule to this Act.
20. (1) Subject to the provisions of this Act, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against an officer or employee of the Agency. 

(2) Notwithstanding anything contained in any other enactment, no suit against a member of the Governing Board or the Director-General, or any other officer or employee of the Agency or the Centre for any act done in pursuance or execution of this Act or any other enactment or law, or of any public duty or authority in respect of any alleged neglect or default in the execution of this Act or any other enactment or law, duty or authority, shall lie or be instituted in any court unless it is commenced: 

(a) within three months next after the Act, neglect or default complained of; or

(b) in the case of a continuation of damage or injury, within six months next after the ceasing thereof.

(3) The notice referred to in Section 21 of this section shall clearly and explicitly state the cause of action, the particulars of the claim, the name and place of abode of the intending plaintiff and the relief which he claims.

21. A notice, summons or other document required or authorized to be served Service of on the Agency under the provisions of this Act or any other enactment or law may be served by delivering it to the Director-General or by sending it by registered post addressed to the Director-General at the principal office of the Agency.

22. (1) In any action or suit against the Agency, no execution or attachment of process in the nature thereof shall be issued against the Agency unless not less than three months notice of the intention to execute or attach has been given to the Agency.

(2) Any sum of money which by the judgment of any court has been awarded against the Agency shall, subject to any direction given by the court, where notice of appeal against the judgment has been given, be paid from the fund of the Agency.

23. A member of the Governing Board or the Director-General or any officer or employee of the Agency or the Centre shall be indemnified out of the assets of the Agency against any liability incurred by him in defending any proceeding, whether civil or criminal, if the proceeding is brought against him in his capacity as a member, Director-General, officer or other employee of the Agency or the Centre.

24. (1) A member of the Governing Board or the Director-General or any other officer or employee of the Agency or the Centre shall:

(a) not, for his personal gain, make use of any information which has come to his knowledge in the exercise of his powers or is obtained by him in the ordinary course of his duty as a member of the Governing Board or as the Director-General, officer or employee of the Agency or the Centre;

(b) treat as confidential any information which has come to his knowledge in the exercise of his powers or is obtained by him in the performance of his duties under this Act;

(c) not disclose any information referred to under paragraph (b) of this subsection, except when required to do so by court or in such other circumstances as may be prescribed by the Governing Board, from time to time.

(2) Any person who contravenes the provisions of subsection (1) of this Section commits an offence and is liable on conviction to a fine of not less than ₦50,000 or to Imprisonment for a term not exceeding six months or to both such fine and imprisonment.

25. The Minister may give to the Governing Board or the Director-General such directives of a general nature or relating generally to matters of policy with regard to the exercise of its or his functions as he may consider necessary and it shall be the duly of the Governing Board or the Director-General to comply with the directives or cause them to be complied with.

26. The Agency may, with the approval of the Governing Board make such regulations as in its opinion are necessary or expedient for giving full effect to the provisions of this Act and for the due administration of its provisions.

27. In this Act: 

“Governing Board” means the National Oil Spill Detection Response Governing Board of the
Agency established under section 2 of this Act;
"Agency" means the National Oil Spill Detection Response Agency established under section 1 of this Act;
"Chairman" means the Chairman of the Governing Board of the Agency;
"Centre" means the National Control and Response Centre established under section 19 of this Act;
"Member" means a member of the Governing Board of the Agency and includes the Chairman;
"Minister" means the Minister charged with responsibilities for matters relating to environment; and
"Ministry" shall be construed accordingly.

28. This Act may be cited as the National Oil Spill Detection Response Agency (Establishment) Act, 2006.

SCHEDULE

FIRST SCHEDULE
Section 2 (5)

SUPPLEMENTARY PROVISIONS RELATING TO THE GOVERNING BOARD, ETC.
CAP. 192 LFN

Proceedings of the Governing Board

1. Subject to this Act and section 27 of the Interpretation Act (which provides for decisions of a statutory body to be taken by a majority of its members and for the person presiding at any meeting, when a vote is ordered, to have a second, or casting vote), the Governing Board may make standing orders regulating its proceedings or that of any of its committees.

2. At every meeting of the Governing Board, the Chairman shall preside and in his absence the members present at the meeting shall appoint one of their member to preside at the meeting.

3. The quorum at a meeting of the Governing Board shall consist of the Chairman or, in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this schedule and six other members.

4. The Governing Board shall for the purpose of this Act, meet not less than three times in each year and subject thereto the Governing Board shall meet whenever it is summoned by the Chairman, and if required to do so, by notice given to him by not less than six other members, he shall summon a meeting of the Governing Board to be held within 14 days from the date on which the notice is given.

5. Where the Governing Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him to the Governing Board for such period as it thinks fit, but a person who is a member by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Governing Board and shall not count towards a quorum.

Committees

6. (1) Subject to its standing orders, the Governing Board may appoint such number of standing and ad hoc committees as it thinks fit to consider and report on any matter with which the Agency is concerned.
(2) A committee appointed under this paragraph shall:
   (a) consist of such number of persons (not necessarily members of the Governing Board as may be determined by the Governing Board), and a person, other than a member of the Governing Board, shall hold office on the committee in accordance with the terms of his appointment; and
   (b) be presided over by a member of the Governing Board.
(3) The quorum of any committee set up by the Governing Board shall be as may be determined by the Governing Board.
(4) A decision of a Committee on the Governing Board shall be of no effect until it is confirmed by the governing Board.
7. The fixing of the seal of the Agency shall be authenticated by the signature of the Chairman, the Director-General or any other person generally or specifically authorized by the Governing Board to act for that purpose.

8. Any contract or instrument which, if made by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Agency by the Director-General or by any other person specially authorized by the governing Board to act for that purpose.

9. Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of the Agency shall be received in evidence and shall, unless the contrary is proved, be presumed without further proof to have been so signed or sealed.

10. The validity of any proceedings of the Governing Board or of any of its committees shall not be affected by:
   (a) any vacancy in the membership of the Governing Board or committee; or
   (b) any defect in the appointment of a member of the Governing Board or committee; or
   (c) reason that any person not entitled to do so took part in the proceedings of the Governing Board or Committee.

11. A member of the Governing Board who has a personal interest in any contract or arrangement entered into or proposed to be considered by the committee shall forthwith disclose his interest to the committee and shall not vote on any question relating to the contract or arrangement.

12. No member of the Governing Board shall be personally liable for any act or omission done or made in good faith while engaged in the business of the Agency.

SECOND SCHEDULE
Section 19(1), (2) and 7 (g) (ii)

The Agency shall in the event of a major Tier 2 or Tier 3 oil spill co-opt and collaborate with the various Ministries/Agencies in respect of their various functions, as set out hereunder—

1. The Nigerian Institute of Oceanography and Marine Research shall:
   (a) assist with data on oil spill trajectory for spillages in brackish and ocean waters;
   (b) monitor the extent of impact in the coastal and marine environment;
   (c) monitor the effectiveness of clean up exercises and advise on least-damaging techniques for quick recovery of impacted areas;
   (d) monitor the recovery rates of impacted areas and document for future use and the most acceptable methods for clean-up in each ecotype;
   (e) recommend rehabilitation and restoration methods for the recovery of impacted areas; and
   (f) provide technical and scientific support services for the Agency.

2. The Federal Ministry of Works shall:
   (a) mobilize human and equipment resources to evacuate affected human communities to safer grounds;
   (b) construct temporary or semi-permanent structures and shelters for the resettlement of victims;
   (c) provide access roads to the scene of an oil spill;
   (d) mobilize the Fire Service to combat fires that may result from an oil spill and for general rescue operations.

3. The Federal Ministry of Health shall:
   (a) set up medical outposts around the scene of an oil spillage to provide medical treatment to affected communities;
   (b) mobilize medical personnel, drugs and other relief materials to check epidemic;
   (c) monitor the effect of an oil spill on the general health of a community;
   (d) observe for possible outbreak of new health conditions that might be attributable to the incidence of an oil spill especially health impacts on potable water supplies; and
   (e) mobilize requirements in hospitals to respond to the emergency.

4. The Federal Ministry of Transport shall:
   (a) mobilise all nearby port facilities to assist in any response effort;
   (b) provide barges and storage for recovered oil;
   (c) facilitate berthing for vessels involved in an oil spill combat; and
   (d) provide advice on the navigability of shipping lanes, creeks and other inland waterways.

5. The Federal Ministry of Information shall:
   (a) provide up-to-date information about an oil spill and give an unbiased view of the response, effort to avail the affected communities and the general public with a clear and true picture of Federal Government’s efforts; and
(b) monitor the response activities work in co-operation with outside media organizations to provide accurate reporting of any oil spillage.

6. The Federal Ministry of Water Resources and the Federal Ministry of Agriculture and Rural Development shall
   (a) provide bore holes for water supply;
   (b) provide food and relief materials; and
   (c) provide agricultural implements and other inputs to resettle fishermen who may have been put out of
       business by the pollution of fishing areas by oil.

7. The Ministry of Communications, shall;
   (a) assist in the setting up of communications centres around the scene of any oil spillage;
   (b) assist with international contacts with foreign based resource centres for assistance; and
   (c) allocate special frequencies for use by the Agency and the Centre.

8. The Federal Ministry of Aviation (NIMET) shall:
   (a) provide regularly, data on the prevailing weather conditions; and
   (b) make predictions on weather changes.

9. The National Emergency Management Agency shall:
   (a) in the event of a major Tier 2 or Tier 3 oil spill, perform its obligatory function of supply of relief
       materials to needy persons and liaise with relevant States Agencies to evacuate and re-settle persons
       should the need arise;
   (b) work alongside the Agency in coordinating oil spill emergencies.

10. The Agency shall:
    (a) assign an office or agency to represent the State or a Local Government on the zonal response team;
    (b) cooperate fully in all the activities during a response exercise;
    (c) assist in raising and training an ad hoc intervention team from within its area of jurisdiction;
    (d) include contingency planning for responses, consistent with its plan and zonal plans, in all related
        emergency and disaster planning;
    (e) initiate public safety and community relations actions necessary to protect public health and welfare
        during an emergency; and
    (f) assist in directing evacuation in accordance with existing State and Local Government Contingency
        Procedures.

11. The Oil Producers Trade Section/Lagos Chamber of Commerce (OPTS) shall:
    (a) provide the operational and ESI maps of the area or areas affected or likely to be affected by an oil spill;
    (b) provide all necessary logistic support services including equipment and specialist personnel for
        response efforts; and
    (c) assist in securing the services of international organizations in response efforts.

12. In conjunction with the Agency, Non-Governmental Organizations, Industrial Groups, Academic
    Organizations and others may other services in:
    (a) assisting in their respective ways to ensure effective response actions;
    (b) conducting scientific researches alongside government to evolve and devise sustainable clean up
        strategies and rehabilitation techniques; and
    (c) organizing, coordinating and ensuring safe use of volunteers in a response action and actually identifying
        where these, can best render service effectively.

13. The Ministry of Science and Technology shall:
    (a) initiate and sustain research and development, into the development of local methods, materials and
        equipment for oil spill detection and response;
    (b) disseminate the results of such R&D for adoption at the levels of the oil communities, companies and
        relevant government agencies; and
    (c) enter into collaborative R&D with international organizations that are involved in oil spill detection
        and response.

14. The Ministry of Defence shall assist:
    (a) to evacuate victims of the spill to designated areas for settlement;
    (b) to provide additional security back-tip;
    (c) to patrol the sea and coastline;
    (d) in providing vessels for oil recovery;
    (c) to render assistance to vessels in distress;
(f) with communication support; in the recovery operation in the sea;
(g) to make surveillance flights over the scene of the spill;
(h) to monitor oil slick movement; and
(i) to provide transportation to and from the scene.

15. The Nigerian Police Force shall assist on full alert:
(a) to keep order in the vicinity of the incident;
(b) to protect property and equipment at the scene;
(c) to protect workers from angry mobs; and
(d) to assist with communication support.

I Certify, in accordance with section 2 (1) of the Acts Authentication Act, Cap. 4, Laws of the Federation of Nigeria 1990, that this is a true copy of the Bill passed by both Houses of the National Assembly.

NASIRU IBRAHIM ARAB,
Clerk to the National Assembly
11th Day of October, 2006

EXPLANATORY MEMORANDUM
This Act establishes the National Oil Spill Detection and Response Agency as the co-ordinating and monitoring body on the implementation of Federal Government policies on National Oil Spill Contingency Plan.

SCHEDULE TO NATIONAL OIL SPILL DETECTION AND RESPONSE AGENCY (ESTABLISHMENT, ETC) BILL, 2006

<table>
<thead>
<tr>
<th>(1) Short title of the Bill</th>
<th>(2) Long title of the Bill</th>
<th>(3) Summary of the contents of the Bill</th>
<th>(4) Date Passed by the Senate</th>
<th>(5) Date Passed by the House of Representatives</th>
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<tr>
<td>National Oil Spill Detection and Response Agency (Establishment) Bill. 2006.</td>
<td>An Act to provide for the establishment of the National Oil Spill Detection and Response Agency and for related matters.</td>
<td>This Bill seeks to establish the National Oil Spill Detection and Response Agency as the coordinating and monitoring body on the implementation of Federal Government policies on National Oil Spill Contingency Plan.</td>
<td>23rd August, 2006.</td>
<td>16th August, 2006.</td>
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I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. 4, the Laws of the Federation of Nigeria. 1990.

I Assent.

NASIRU IBRAHIM ARAB,
Clerk to the National Assembly
11th Day of October, 2006.

CHIEF OLUSEGUN OBASANJO, GCFR
President of the Federal Republic of Nigeria
18th of October, 2006
NIGERIA LNG (FISCAL INCENTIVES, GUARANTEES AND ASSURANCES) ACT, 1989

ARRANGEMENT OF SECTIONS

SECTION:
1. Pioneer status.
2. Tax relief period.
3. Liability to companies tax.
5. Interest on loan.
6. Withholding tax on interest, dividends, etc.
7. Exemption from customs duties.
8. Restriction on set off of capital allowance.
10. Interpretation.
11. Short title.

SCHEDULES

FIRST SCHEDULE
Early termination of tax relief period

SECOND SCHEDULE
Guarantees and assurance to Nigeria LNG Limited and its shareholders

NIGERIA LNG (FISCAL INCENTIVES, GUARANTEES AND ASSURANCES) ACT

An Act to confer pioneer status on the Nigeria LNG Limited and the exempt the company from certain taxes, customs duties, other levies and provisions of the Pre-Shipment inspection of Import Act and to provide for the guarantees an assurances by the Federal Government to the company and its shareholders.

[1990 No. 39]

Commencement [24th April, 1989]

1. Pioneer status
   (1) The registered company known as the Nigeria LNG Limited (hereafter in this Act referred to as “the Company”) shall be regarded as a pioneer company within the provisions of the Industrial Development (Income Tax Relief) Act.

   [Cap. 17.]

   (2) The provisions of the industrial Development (Income Tax Relief) Act, other than sections 2, 3 and 7 thereof and as otherwise provided in this Act, shall apply to the company.

   (3) The business undertaken by the Company and its products are hereby declared as pioneer industry and pioneer products respectively.

   (4) For time purposes of this Act, “production day” means the date of the first commercial delivery of liquefied natural gas produced by the company to a purchaser of the liquefied natural gas, upon which date the trade or business of the company shall be deemed to commence for the purposes of the Companies Income tax Act.

   [Cap. C21]
2. Tax relief period
Notwithstanding the provisions of section 10 of the Industrial Development (Income Tax Relief) Act, the tax relief period of the Company shall commence on the production day of the Company and shall continue for a period of ten years, so however that the tax relief period shall terminate at the first anniversary date after the first five years when the cumulative average sales price of liquefied natural gas reaches US3 Dollars/mmbtu as calculated in the First Schedule to this Act in accordance with which such calculation shall only be made annually at each anniversary date.

[Cap. 17 First Schedule]

3. Liability to companies tax
Except as otherwise provided under this Act, the company shall be subject to tax under the provisions of the Companies Income Tax Act.

4. Dollar accounting
(1) The authorised and issued share capital of the company shall, notwithstanding any provisions to the contrary in any other Act, be denominated in United States Dollars and the books and records of the Company and the account shall also be drawn up in the same currency.

(2) Notwithstanding any provision to the contrary in the Companies Income Tax Act or any other Act, the Company shall compute its income, expenditure (both capital and revenue), profits, assessable profits, total profits and all other amount required to be computed or calculated by the Companies Income Tax Act or any Act. In the United States dollars, and in particular the reference in section 40 of the Companies Income Tax Act to the rate of tax shall for the company be taken to be expressed in the same number of cents for each dollar as that section expresses the rate in kobo for each naira.

[Cap. C21]

5. Interest on loans
(1) Interest payable by the company in any year, whether to third parties or to shareholders; associates or subsidiaries of shareholders, shall be deductible in full for tax purposes.

(2) All interest payable by the company before the end of its tax relief period shall be deemed to have accrued for tax purposes on the day next following the end of the tax relief period.

6. Withholding tax on interest, dividends, etc.
(1) Interest or any other amount payable or paid to any company other than a Nigerian company in respect of any loans or other financial arrangements made with the company shall be exempt from taxation in Nigeria.

(2) Dividends paid out of the account kept by the Company for the purposes of Section 17 (1) of the Industrial Development (Income Tax Relief) Act, whenever declared or paid, shall be deemed to be paid out of profits exempted from tax and the provision to Section 18 of Companies Income Tax Act shall apply accordingly.

[Cap. 17]

(3) In so far as any payments are made by the Company in respect of interest or other payments within subsection (1) of this section, dividends within subsection (2) of this section and payments within subsection (4) of this section, the provisions of section 78, 79, 80 and 81 of the Companies Income Tax Act, including any provision made pursuant to those sections, shall not apply.

(4) Notwithstanding the provisions of subsection (2) of this section, dividends declared out of profit not credited to the special account under the provisions of section 17 of the Industrial Development (Income Tax Relief) Act, shall be subject to the normal rules on withholding tax.

(5) In respect of any work or services provided from outside Nigeria to the Company by any person other than a Nigerian company or citizen, that person shall be exempt from tax on income or profits arising from the provision of that work or those services.

(6) Any transfer of shares or any other interest in the company or any company connected with the Company, shall be deemed, for the purposes of the Capital Gains Tax Act, to take place for such consideration as would leave the transfer with neither a gain nor a loss under section 12 of that Act, if the transferor and transferee are connected within the meaning of section 23 of the same Act.

[Cap. C1.]

(7) For the purpose of subsection (6) of this section, legal proof of the relationship between the transferor and any transferee shall be clearly established.
(8) Where any shipping company owned directly or indirectly by the company or one or more the shareholders of the company carries on the business of transport by sea of liquefied natural gas produced by company, such shipping company shall be exempt from tax in Nigeria under section 14 of the Companies Income Tax Act, or any other law, on the profits derived from that business.

[1993 No. 113 Cap. C21]

(9) In respect of any payment made by the Company to a shipping company within subsection (8) of this section for the Shipment of liquefied natural gas, by way of hire, freight, demurrage or otherwise, the Company shall be exempt from the requirement to withhold tax or any other impost from the payment, under section 78 of the Company Income Tax Act, or any other law.

[Cap. C21.]

(10) The provisions of the National Shipping Policy Act and the regulations made thereunder shall not be applicable to the Company, its contractors, sub-contractors, its customers or a shipping company referred to in subsection (8) of this section.

[Cap. N75, 1993 No. 113.]

7. Exemption from customs duties

(1) The Company and its contractors and sub-contractors shall be exempt from the payment of import duties, taxes and all other duties, levies, charges and imports of a similar nature, in respect of all necessary imports of plant, machinery, goods and materials for use in the construction of, or incorporation in the plant, jetties, shipping, transmission facilities and ancillary works used in the Company's business, and in respect of any major spare parts needed in the event of a plant failure and ordered within two years of commissioning that part of the plant for which the particular spare part is ordered, subject to subsection (2) of this Section.

[1993 No. 113.]

(2) The Company shall provide to the Comptroller-General of Customs; a schedule of the categories of items within subsection (1) of this section to be imported, before the items are imported into Nigeria and if the Comptroller-General of Customs is not satisfied that it is necessary to import any item or items so notified, he shall give notice to the Company within fourteen days of receipt of the schedule or revisions thereto, and import duties or other tax levied by any other Act shall be payable by the Company in respect of that item or items.

(3) Where the Company disagrees with any notice issued by the Comptroller-General of Customs under subsection (2) of this section, it may, within thirty days of receipt of the notice, give written notice of its dissatisfaction to the Comptroller-General of Customs and to the Minister of Internal Affairs, who shall hear representations from both the company and the Comptroller-General of Customs to determine whether exemption shall be granted; and the determination of the Minister of internal Affairs on the matter shall be final and binding.

(4) Pending notification of the determination of the Minister, the importation of the items in dispute shall be allowed without any restriction or payment of duty.

(5) Such duty as may be payable under the determination of the Minister shall be paid upon importation of the item in dispute or within thirty days of the receipt of the Minister's notification, whichever is the later.

(6) The provisions of the Pre-Shipment Inspection of Imports Act and the regulations made thereunder requiring pre-shipment inspection, the submission of reports in connection therewith under the Comprehensive Import Supervision Scheme and the "form M" Procedures, the "Form C-3.1" Procedures or such other similar procedure of the Central Bank of Nigeria, shall not apply in relation to the importation of a plant, machinery, goods and materials for use in the construction of or incorporation of a plant, jetty, shipping, transmission facilities and ancillary works used in the Company's business and in respect of any major spare parts needed in the event of a plant failure and ordered within two years of the commissioning of that plant for which the spare part is ordered.

[Cap. P26. 1993 No. 113]

(7) No export duties, taxes or other duties, levies, charges or impost of a similar nature shall be payable or imposed on the export of liquefied natural gas or other hydrocarbons produced by the Company.

[1993 No. 113]

8. Restriction on set off of capital allowance

Notwithstanding the provisions of sub-paragraph (7) of paragraph 24 of the Second Schedule to the
Companies Income Tax Act, the Company shall not be restricted on the set off of capital allowance accumulated during its tax relief period against its assessable profits in the periods following the end of its relief period.

[Second Schedule. Cap. C21.]

9. Guarantees and assurances

The guarantees and assurances set out in the Second Schedule to the Act shall have effect with respect to the shareholders of the Company and the Company.

10. Interpretation

In this Act, unless the context otherwise requires—
“LNG” means liquefied natural gas.

11. Short title

This Act may be cited as the Nigeria LNG (Fiscal Incentives, Guarantees and Assurances) Act.

SCHEDULES

FIRST SCHEDULE

[Section 2]

Early termination of tax relief period

1. The cumulative average sales price is calculated at each anniversary date as follows—
(a) for each period ended on an anniversary date, calculated the annual average sales price of liquefied natural gas by dividing the total invoiced sales of liquefied natural gas in the twelve months ending on the anniversary date in US$; by the total invoiced deliveries of liquefied natural gas in Millions of British Thermal Units, in the same period;
(b) calculate the Nigeria LNG index for each of the periods between the production day and the anniversary date, by multiplying the US Dollar/SDR index at the end of each period with the CPI at the same date, dividing the result by 1.9924344, or such other denominator as gives an answer of 100 for 31 December 1987, in the event that the CPI is rebased;
(c) divide the annual average sales price for each period—
(i) by the Nigeria LNG Index for the same period;
(ii) to calculate the adjusted price for the period;
(d) calculate the cumulative average sales price for the period from the production day to the anniversary date by dividing the sum of the adjusted prices (c) for each period from the period in which the production day falls to the period which ends with the anniversary date by the number of such periods.

2. For the purposes of this Schedule—
(a) anniversary date means the anniversary of the Production Day and each anniversary thereof until the ninth anniversary;
(b) the US Dollar/SDR Index shall be the figure published by the International Monetary Fund in the publication titled “International Financial Statistics” for the end of the month in which the anniversary date falls for the United States dollar/Special Drawings Right Index (series “sa United States”) or if that publication ceases then in its successor or a comparable United States publication of good standing; and
(c) the CPI shall be the figure published by the International Monetary Fund in the “International Financial Statistics” for the end of the month in which the anniversary date falls for the Industrialised Countries Consumer Price Index (series 110) or if the publication ceases then in its successor or a comparable United States publication of good standing;
(d) period means 365 calendar days (366 in a leap year) preceding an anniversary date.
SECOND SCHEDULE
[Section 9.]

Guarantees and assurances to Nigeria LNG Limited and its shareholders [1993 No. 113.]

The Federal Government of Nigeria (in this Act referred to as “the Government”) in recognition of the magnitude of, and in consideration of the investments which shall have to be made in order to prosecute the venture described in the shareholders’ contract dated 19th May, 1989 between the Nigerian National Petroleum Corporation, Shell Gas B.V., CLEAG Limited and Agip international B.V., as amended, from time to time (such shareholders’ contract, as so amended in this Act referred to as “the contract”) hereby grants to the Company, its successors and to each of the shareholders, from time to time (in their capacity as such), the guarantees, assurances and undertakings following hereunder. These guarantees, assurances and undertakings shall have effect from the date hereof, and so long as the Company, or any successor thereto, is in existence and carrying on the business of liquefying and selling liquefied natural gas and natural gas liquids within and/or outside the Federal Republic of Nigeria.

The guarantees and assurances are as follows—

1. The Government shall do nothing to render invalid unenforceable rights and obligations arising under the contract and the other contracts and arrangements contemplated in the contract, to the extent that such rights and obligations are not illegal in Nigeria and do not offend against Nigerian public policy and provided that such contracts have been kept validly subsisting by the parties thereto, it being understood that such other contracts or arrangement will not be deemed to be illegal or contrary to Nigerian public policy for the sole reason that the requisite government actions referred to in clause 6 hereof have not been effected.

2. The venture shall be subject to the fiscal regime contained in the provisions of this Act. Such fiscal regime shall not be amended in any way, except with the prior written agreement of the Government, the Company and each of the Company’s shareholders.

3. Without prejudice to any other provision contained herein, neither the Company nor its shareholders in their capacity as shareholders in the Company, shall in any way be subject to new laws, regulations, taxes, duties, imposts or charges of whatever nature which are not applicable generally to companies incorporated in Nigeria or to shareholders in companies incorporated in Nigeria, respectively.

4. Shareholders who have purchased shares in the Company, with funds originating from outside Nigeria, shall enjoy all benefits of approved status under relevant legislation in respect of their equity shareholding. Such benefits shall include permission to transfer out of Nigeria dividends and capital without undue restriction, provided that there are sufficient foreign exchange reserves in Nigeria to enable such transfers to be made, and that all applicable notifications have been given and relevant regulation complied with.

5. The Government recognises that it is in the interests of the venture that shares in the Company should be freely transferable, subject to the constrains contained in the contract and the applicable laws; accordingly the government shall facilitate the grant of all permits and other authorizations require for the sale or transfer of share in the Company.

6. The Government shall take such executive, legislative and other action as may be necessary so as to effectively grant, fulfil and perfect the guarantees, assurances and undertakings contained herein. In order to afford the degree of security required to enable the Company’s investment to be made, the Government further agrees to ensure that the said guarantees, assurances and undertakings shall not be suspended, modified or revoked during the life of the venture except with the mutual agreement of the Government and the shareholders of the Company.

7. The Company shall be permitted to remit fund which shall be carried out through legal channels and to maintain bank account outside Nigeria as may be necessary, and retain in such accounts subscription monies for shares, loans, payments and proceeds of sale, for the purpose of making payments in foreign currencies in respect of interests, dividends, loan re-payments, the purchase of natural gas from the production joint ventures, charges and materials, equipment plants, shipping and services acquired abroad. The Company shall be obliged, however to advise the exchange control authorities on a regular basis of the transactions that have taken place and provide any documentation which may be require by the exchange control authorities to support such transactions.
8. Permission shall be given to the Company to declare and pay dividends in United States dollars, after due provision for the payment of tax has been made, without restriction as to time, amount, or the relationship such dividends bear to the share capital of the Company. Such permission shall enable dividends to be paid, without restriction, to resident and non-resident shareholders.

9. The Government shall ensure that the Company is able to receive its finance in Nigeria in the form of either or both money transferred directly abroad, and plant, machinery, materials, equipment and services imported from abroad; and to convert the money so transferred into Nigerian currency at rates of exchange not less favourable to the Company than those available to any other commercial enterprise in Nigeria.

10. The Government shall treat the venture as a priority project for loan financing purposes and shall reflect this in appropriate public statements and in assurances to the World Bank, the International Monetary Fund, other multilateral and bilateral agencies and financial institutions.

11. The Government, in its capacity as host Government, shall provide assurances and guarantees which may reasonably be required by the Company's lenders, provided such assurances and guarantees are within the scope of the guarantees and assurances contained in this Act.

12. The Government shall not impose constraints on the amount of loan or other financing which may be provided to the venture.

13. The Government shall facilitate—
   (a) the grant of any licence or permit required for the importation or exportation of plant material, equipment and products of the Company;
   (b) the grant of permits, licences required for the construction, start up and operation of the facilities;
   (c) the customs formalities in respect of imports and exports (not include personal effects) required in connection with the construction, operation and maintenance of the Company facilities and products; and
   (d) the prompt registration and certification by the National Office for Technology Acquisition and Promotion of all contracts for the transfer of technology to the Company by its advisers, contractors and sub-contractors in accordance with the National Office for Technology Acquisition and promotion Act, accordingly the provisions of subsection (2) of section 6 of the said Act, shall not be applicable to any of the afore-mentioned contracts.


14. The Government shall facilitate the acquisition by the Company of legally sound title to, and vacant possession (for a period of not less than 80 years) of land required by the Company for the venture (including a suitable residential area), together with rights of way, casements and other rights necessary for the implementation of the venture. Such title to and possession of the land shall be on reasonable and non-discriminatory terms.

15. For all practical purposes, the Company shall be treated as an independent, autonomous, commercial entity and its operations, policies, procedures and conditions of services shall be determined by the Board at Directors of the Company.

16. The Government shall facilitate the grant of visas to expatriate staff required by the Company for the implementation, construction, start-up and on-going operations of the venture.

17. Permission for the Company to own and construct jetties and a bonded area for loading and unloading construction equipment and material and for shipment for liquified natural gas and natural gas liquids shall be granted where these comply with the requirements of the Federal Ministry of Transport, the Nigerian Ports Authority ("NPA") and the relevant Customs authority and other official bodies in Nigeria. Customs personnel shall be provided at the bonded area at all times. Appropriate facilities for such personnel shall be provided by the Company.

18. (1) The Company and Government shall work together to agree on specifications for marine and port services to be provided at Bonny as regards—
(a) the capital dredging at the Bonny bar channel by the Company and the maintenance dredging by Governance;  

[1993 No. 113.]

(b) Government's responsibility to provide and maintain the navigational aids for the Bonny bar channel;  

[1993 No. 113.]

(c) Government's responsibility for providing a fully comprehensive traffic control system for Bonny port;  

(d) Government's responsibility for ensuring that all traffic in the Bonny channel shall carry a pilot and allocation of top graded pilots to the venture;  

(e) the Company's responsibility for ensuring the safety and protection of the designated safety zone around the LNG berth with the assistance and co-operation of the law enforcement agencies;  

(f) the Company's responsibility to provide, operate and maintain the tugs, mooring boats and patrol crafts required for the venture; and  

[1993 No. 113]  

(g) if, in the Company's option, the activities for which the Government is responsible, pursuant to sub-paragraph (a), (b) and (c) of this paragraph, are not carried out in such a manner as to satisfy the Company's requirements, the Company shall have the right to arrange for the necessary activities to be carried out.  

[1993 No. 113.]

(2) The Company and the Nigerian Port Authority acting on behalf of Government shall liaise and co-ordinate their respective activities to ensure the successful implementation of the sub-paragraph (1) of this paragraph.

(3) The capital costs incurred by the Company in fulfilling the responsibility allocated to it pursuant to sub-paragraph (1) (a) of this paragraph and in providing navigational aids for the Bonny bar channel and traffic control facilities to be used by Nigerian Ports Authority on behalf of Government in fulfilling Government's responsibilities pursuant to sub-paragraphs (1) (b) and (c) of this paragraph and any costs incurred by the Company for activities undertaken by the Company pursuant to sub-paragraph (1) (g) of this paragraph shall be borne by the Nigerian Ports Authority and shall be reimbursed to the Company on terms to be agreed between the Nigerian Ports Authority and the Company in good faith.  

[1993 No. 113]  

19. Permission shall be granted by the Government through the Nigerian Electric Power Authority on application by the Company for the Company to construct, own and operate an electricity generating plant with a capacity of about 200 megawatts as part of the facilities under terms and conditions which govern such power generating plants:  

Provided that no conditions shall be attached to any such grant requiring the Company to generate and supply electrical power for any purpose other than to meet the requirements of the venture for power supply to the LNG plant, the Company's other facilities area at Bonny and the Company shall not be obliged to supply power to the Nigeria Electricity Power Authority for local distribution or otherwise.  

[1993 No. 113.]

20. The Company shall, at its own expense, provide itself, in accordance with the Company's Comprehensive and Integrated Telecommunications Network plan, with local telephone and relax services and facilities for international leased circuits and satellite links between its loading terminal near Bonny and ships at sea transporting Liquefied natural gas produced by the Company, as well as the receiving terminals of the Company's overseas customers, provided however that where these services and facilities can be provided by the Nigerian Telecommunications Limited in a timely fashion so as to fulfil these requirements of the venture, the Company shall use reasonable endeavours to use the services and facilities of the Nigerian Telecommunications Limited.  

[1993 No. 113.]

21. The Government hereby affirms its recognition of the shareholders' right to prompt adequate and effective compensation in the event of expropriation of tangible property or property rights or interference with contract rights.
22. In the event of any dispute in respect of a substantial matter arising from the provisions of this Act, the aggrieved shareholder(s) in the Company shall issue a letter of notification to Government, formally notifying Government and the other shareholders of the dispute. The Government’s representatives and one or more of the Company’s shareholders, as the case may be, shall make serious efforts to resolve amicably such dispute.

In the event of failure to reach amicable settlement within 90 days of the date of the letter of notification mentioned above, such dispute may be submitted to arbitration before the International Centre for the Settlement of Investment Disputes.

NIGERIA LNG (FISCAL INCENTIVES, GUARANTEES AND ASSURANCES ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
WEST AFRICAN GAS PIPELINE PROJECT ACT, 2005

ARRANGEMENT OF SECTIONS

SECTION:

PART I — CORPORATE MATTERS
1. Local incorporation of the West African Pipeline Company, shippers, buyers and other persons, etc.
2. Registration as a foreign or external company, filing obligation, share transfers and charges, Cap. 59 LFN.
3. Keeping of accounts and submission of reports.

PART II — THE WAGP AUTHORITY
4. Power of the WAGP Authority.
5. Steering Committee to perform initial functions.
6. Reporting and monitoring of the WAGP Authority.
7. Reliance on WAGP Authority actions and authorizations.
8. Government to be bound by the actions of the WAGP Authority.
9. Funding of the WAGP Authority.

PART III — LICENSING
10. Grant and conditions of pipeline licence.
11. Duration of the licence.
12. Mortgage of a licence.
13. Rights conferred by licence.
15. No other licence required.
16. Electricity and telecommunications.
17. Transmission, export or import of natural gas.
18. Dealing in natural gas by shippers and buyers, etc.

PART IV — WAGP REGULATIONS
20. Power of the Minister to make and implement the WAGP Regulations, etc.
22. Power to amend and supplement.

PART V — FINANCIAL PROVISIONS
23. Agreed fiscal Regime.
25. Buyers, sellers, shippers and Project contractors.
26. Foreign currency and financial transactions.
27. Additional benefits and exemptions for Company.
28. Authority of the Nigerian National Petroleum Corporation.
29. Security and assets.
30. Performance guarantee.
31. Waiver of immunity.

PART VI — ENVIRONMENTAL PROVISIONS
32. General environmental liability.
33. Exemption from liability for certain environmental damage.
34. Mitigation measures for certain environmental impacts existing before the commencement of the Project.
PART VII — MISCELLANEOUS PROVISIONS

35. Empowerment to carry out the project.
36. Anti-trust provisions.
37. Ownership of pipeline system.
38. Insurance program.
39. Disapplication of other laws.
40. Inconsistency of this Act with other laws.
41. Interpretation.
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SCHEDULES

FIRST SCHEDULE
SUPPLEMENTARY PROVISIONS RELATING TO AGREED FISCAL REGIME

SECOND SCHEDULE
SUBJECT MATTER OF THE WAGP REGULATIONS

WEST AFRICAN GAS PIPELINE PROJECT ACT, 2005

AN ACT TO PROVIDE FOR THE IMPLEMENTATION OF THE TREATY ON THE WEST AFRICAN GAS PIPELINE PROJECT AND THE INTERNATIONAL PROJECT AGREEMENT, AND FOR RELATED MATTERS.

Commencement  [22nd Day of June, 2005]

WHEREAS Federal Republic of Nigeria is a Party to the Treaty on the West African Gas Pipeline Project (in this Act referred to as “the WAGP Treaty”) entered into by the Republic of Benin, the Republic of Ghana, the Federal Republic of Nigeria and the Republic of Togo dated 31st January, 2003;

AND WHEREAS the Parties to the WAGP Treaty entered into an International Project Agreement with the West African Gas Pipeline Company Limited pursuant to the provisions of Article VII of the WAGP Treaty on 28th May, 2003;

AND WHEREAS the WAGP Treaty including the International Project Agreement has been ratified by Nigeria;

Now THEREFORE IT IS—
ENACTED by the National Assembly of the Federal Republic of Nigeria—

PART I — CORPORATE MATTERS

1. (1) The West African Gas Pipeline Company (in this Act referred to as the Company”) shall—
   (a) perform the functions required to be performed by it under the terms of the International Project Agreement in its own right; and
   (b) not be required to incorporate a subsidiary in Nigeria or conduct its operations in Nigeria through a subsidiary by reason only of—
      (i) the grant or exercise of the project rights or the project authorizations;
      (ii) the establishment in Nigeria of a place of business for the purpose of the Project; or
      (iii) the implementation of the Project.

(2) Any shipper or buyer in Nigeria, in its own right, may—
   (a) acquire natural gas for transmission through the Pipeline System; or
   (b) contract with the Company to transport natural gas through the Pipeline Systems; or
   (c) contract with another person to transport natural gas through other pipeline facilities to the Pipeline System,

   and shall not be required to incorporate or act through a subsidiary in Nigeria by reason only of that acquisition or transmission.
(3) Any person in Nigeria either on its own behalf or on behalf of another person, in his or its own right, may—
(a) offer for sale, promote the sale of, or sell natural gas to be transported through the Pipeline System; or
(b) deliver gas through the Pipeline system;
and shall not be required to incorporate or act through a subsidiary in Nigeria by reason only of that activity.

2. (1) Without prejudice to Section 1 of this Act, the Company shall establish a legal presence in Nigeria and shall be exempted from any requirement in the Companies and Allied Matters Act to incorporate as a separate Local Legal entity and the Commission shall maintain a registration for the Company as an external Company.

(2) In order to register as an external company, the Company shall deliver a statement to the Commission containing the following information about the Company—
(a) its name;
(b) its country of incorporation, its registration number and the identity of the register in its country of incorporation;
(c) the address of its registered office in its country of incorporation;
(d) copies of its constitutional documents;
(e) details of its directors and secretaries;
(f) the amount of its authorised and issued share capital;
(g) the address of any office of the Company in Nigeria; and
(h) the name and address of all persons resident in Nigeria authorised to accept service on behalf of the Company in respect of the business of any branch of the Company in Nigeria.

(3) The Company shall not be required to comply with any reporting and filing requirements under any law or enactment other than the following reporting requirements—
(a) the Company shall notify the Commission of any change to the information contained in the statement delivered under subsection (2) of this section within 28 days of the change occurring thereof; and
(b) the Company shall submit to the Commission audited financial reports prepared in accordance with section 3 of this Act within 6 months of the end of each tax year.

(4) Notwithstanding anything to the contrary contained in any enactment or law, there shall be no restriction on the ownership of any transfer of, or any transaction concerning, shares in or the share capital of the Company and any sale, transfer, pledge of or other transaction in the share capital of the Company or the share capital of a shareholder shall not be subject to any prior approval of any authority in Nigeria nor shall it give rise to any right to suspend or revoke a project authorisation or a project right nor to amend the terms or conditions thereof.

(5) If the Company creates a mortgage, charge or other security interest over any property situated in Nigeria, the Company or the holder of the security interest may register the charge with the Commission, or with any other appropriate registry, in the same manner as a company incorporated in Nigeria.

(6) In respect of a mortgage, charge or security interest registered as provided in subsection (5) of this section, section 198 of the Companies and Allied Matters Act shall apply to the Company in the same manner as a company incorporated in Nigeria.

3. (1) The Company and any of its branches, places of business or subsidiaries in Nigeria shall keep bank accounts in such currencies as it considers appropriate.
(2) All financial statements and reports to be prepared and submitted by the Company or any of its subsidiaries to any applicable authority in Nigeria shall be prepared in US dollars in accordance with the accounting principles.
(3) The Company shall have no obligation to prepare or maintain or file financial reports in respect of any branch, subsidiary or place of business in Nigeria or otherwise solely in respect of the Company’s activities in Nigeria.
PART II — THE WAGP AUTHORITY

4. The WAGP Authority shall have the power to—
   (a) perform the functions assigned to it under the WAGP Treaty;
   (b) monitor compliance by the Company with the WAGP Regulations; and
   (c) exercise the powers conferred on it under the WAGP Regulations.

5. The Steering Committee shall be responsible for carrying out the functions of the
   WAGP Authority prior to the WAGP Authority having acquired the full authority to
   perform its functions.

6. The WAGP Authority shall in accordance with the WAGP Treaty report to, and be
   subject to the direction of, the Committee of Ministers in respect of any of its activities
   in or relating to Nigeria.

7. The Company and each buyer, seller and shipper shall be entitled to act in Reliance on
   the exercise by the WAGP Authority of the powers conferred upon it by this Act, the
   WAGP Treaty or the WAGP Regulations.

8. The Government shall be bound by the actions and decisions of the WAGP Authority
   to the extent of the powers conferred upon it by this Act, the WAGP Treaty and/or the
   WAGP Regulations.

9. The Government shall have the power to take all measures required of it under the
   WAGP Treaty or the International Project Agreement, or which it considers necessary,
   to provide funds and support the activities of the WAGP Authority as the need arises.

PART III — LICENSING

10. (1) The Company shall construct and operate the Pipeline System pursuant to a licence
    granted by the Minister in accordance with the provisions of the Oil Pipeline Act and this
    Act.

    (2) Without prejudice to subsection (1) of this section, the Company shall construct the
        pipeline system subject to any building permit granted by the Town and Country Planning
        Authority or Department having jurisdiction over the area where the pipeline traverses.

11. Notwithstanding anything to the contrary in the Oil Pipelines Act or any enactment or law,
    the licence granted by the Minister for the Project shall be for a period of 25 years in the first
    instance and may be renewed for a further period of 10 years at a time.

12. The Company may create a mortgage using a licence granted pursuant to section 10 of this Act.

13. A licence granted in accordance with section 10 of this Act shall, in addition to those rights
    set out in C of the Oil Pipelines Act, confer upon the Company and upon its officers, servants,
    agents and the Project Contractors the right—
        (a) to enter upon (with all necessary equipment and vehicles); and
        (b) to take non-exclusive possession of and use a strip of land or seabed or subsoil of a width
            specified in the Approved Pipeline Development Plan either side of, the route specified
            in the Approved Pipeline Development Plan and thereon, there over or there under to
            construct, maintain and operate the pipeline system.

14. (1) Notwithstanding that a licence has been granted pursuant to section 10 of this Act, the
    Company shall not commence the commissioning or operation of the pipeline system or any
    newly installed part thereof, without a prior approval to operate given by the WAGP Authority.

    (2) The Company in making an application for approval, and the WAGP Authority, in
        granting the approval to operate under subsection (1) of this section, shall follow such
        procedures as may be agreed between them.

15. Except as otherwise provided in this Act, no other licence or permit or licence authorisation
    is required by the Company or any Project Contractor for the construction and operation of
    the pipeline system.

16. The Company may—
    (a) construct, own and operate an electricity generating plant as part of the pipeline system; and
(b) construct, own and operate such communication facilities, as set out in the Approved Pipeline Development Plan.

17. (1) No transit, export or import permit, licence or other authorisation shall be required by the Company, a buyer, a seller or a shipper solely for the purposes of—
(a) export of natural gas from Nigeria by means of the pipeline system;
(b) transit of natural gas through Nigeria by means of the pipeline system; or
(c) import of natural gas into Nigeria by means of the pipeline system.

18. (1) No shipper or buyer, who—
(a) acquires natural gas in Nigeria for transmission through the pipeline system;
(b) ships natural gas through the pipeline system, or
(c) ships natural gas through other pipeline facilities to the pipeline system, shall be required to obtain any licence or permit by reason only of that acquisition or transmission.

(2) No person who, in Nigeria (either on its own behalf or on behalf of another person)—
(a) offers for sale or promotes the sale of or sells natural gas to be transported through the pipeline system; or
(b) delivers gas through the pipeline system, shall be required to obtain any licence or permit by reason only of that offer, promotion, sale or delivery.

19. The transmission of natural gas through Nigeria or across its territorial boundaries may be restricted during a period of a national emergency declared by the President in accordance with the Constitution of the Federal Republic of Nigeria 1999 and upon the cessation of such national emergency, any restrictions placed on the transmission of natural gas through Nigeria or across its territorial boundaries shall cease.

PART IV — WAGP REGULATIONS

20. (1) The Minister shall adopt and implement, as delegated legislation, the WAGP Regulations.

(2) The WAGP Regulations made by the Minister pursuant to subsection (1) of this section, including any amendments or supplements thereto, shall be—
(a) consistent with similar regulations adopted in the Republics of Benin, Ghana and Togo; and
(b) consistent with the WAGP Treaty and this Act.

(3) The WAGP Authority shall have exclusive power to administer and enforce the WAGP Regulations in Nigeria and may collaborate with the Minister or any relevant agency of Government.

21. Notwithstanding anything to the contrary in any enactment or law, any of matter specified in the Second Schedule of this Act relating to the pipeline system and the Company shall be exclusively regulated in Nigeria by this Act and the WAGP the Second Regulations.

22. The Minister may amend or supplement the WAGP Regulations to the extent amend and that such amendment or supplement is consistent with this Act and with the obligations of Nigeria under the WAGP Treaty.

PART V — FINANCIAL PROVISIONS

23. The liability for, and the calculation of, and method of assessment of tax payable by the Company and each WAGP Company in relation to WAGP income otherwise referred to as the agreed fiscal regime shall be in accordance with the principles and rules set out in the First Schedule to this Act.

24. The Non-WAGP Regime shall not apply to any WAGP Company in respect of WAGP activities or WAGP income except as set out in the First Schedule to this Act.
25. The principles and rules relating to the liability for, and the calculation of tax sellers, in the First Schedule to this Act shall also apply to buyers, sellers, shippers and Project Contractors to the extent specified in the First Schedule to this Act and the Non-WAGP Regime applicable to buyers, sellers, shippers and Project Contractors in respect of their activities as provided in the First Schedule to this Act shall be modified in accordance with the First Schedule to this Act.

26. (1) Each of the WAGP Companies, the shareholders, the Project Contractors, the buyers, the sellers and the shippers, and their counterparts, shall be entitled (solely in connection with the Project, or the transportation of natural gas in, or the sale of natural gas transported or to be transported through the pipeline system, or the provision of security for their obligations under agreements in respect of the foregoing) to do the following, that is to—

(a) open, maintain and operate bank accounts in foreign currency both inside and outside Nigeria and receive payments of any kind (including without limitation, revenues in connection with the sale or transportation of natural gas) directly into all or any such accounts and retain the proceeds therein and make payments from such accounts as it should think fit;

(b) transfer foreign currency into Nigeria;

(c) purchase local currency at the most favourable rate available and in any event at a rate not less favourable than that which is generally made available by the Central Bank of Nigeria;

(d) convert local currency into foreign currency at the most favourable rate available and in any event at a rate not less favourable than that generally made available by the Central Bank of Nigeria;

(e) transfer, export and hold foreign currency outside of Nigeria;

(f) obtain and use letters of credit in foreign currency;

(g) utilise foreign currency in Nigeria without restriction, other than local costs incurred in Nigeria with suppliers of goods or services who are residents of Nigeria which shall be paid in Naira;

(h) be exempted from any rule or regulation of Nigeria requiring the repatriation or mandatory conversion of foreign currency into local or any other currency;

(i) pay in foreign currency all salaries, allowances and other benefits due to any of their employees in connection with or relating to the Project, other than residents of Nigeria who are only engaged in relation to the Project in Nigeria;

(j) pay in foreign currency any amount due to foreign Project Contractors, shareholders or lenders in connection with the Project;

(k) make any other payments due in connection with or relating to the Project in foreign currency, other than costs incurred solely in Nigeria with residents of Nigeria; and

(l) enter into contracts with each other for services or the sale of goods, and to make payment for such goods or services, in any foreign currency.

27. Notwithstanding anything to the contrary in any enactment or law, the Company shall be entitled to—

(a) borrow money or raise equity in foreign currency from any source, and in each case, without the requirement for any further approval, consent or administrative act of Nigeria or any State authority;

(b) remit to shareholders out of Nigeria any dividend derived from the Company or its affiliate in Nigeria or return of capital without any deduction, withholding or other cost, in each case without the requirement for any further approval, consent or administrative act of Nigeria or any State authority;

(c) grant security over any property of the Company or its affiliate in Nigeria or else where to lenders or other creditors or potential creditors, including balances in local and foreign currency bank accounts within or outside Nigeria;

(d) service or repay foreign loans and pay associated fees and indemnities in currency without being subject to any tax or withholding obligation or deduction; and

(e) remit to its lenders any principal, interest, fees or other borrowing costs owed or
payable by the Company or its affiliate in Nigeria without any deduction, withholding or other cost, in each case without the requirement for any further approval, consent or administrative act by Nigeria or any State Authority.

28. The Nigerian National Petroleum Corporation established pursuant to the Nigerian National Petroleum Corporation Act, 1990 (in this Act referred to as “the Corporation”) shall have, power to undertake any commitment in any commercial agreement relating to the project to which it is party.

29. In addition to the provisions of the Nigerian National Petroleum Corporation (Projects) Act, 1993, the Corporation or any of its subsidiary may charge any of its assets, revenue and account as are set aside for the project as security for the performance of its obligations under any agreement relating to the Project to which it is a party.

30. The President of the Federal Republic of Nigeria may in the name and on behalf of Nigeria, in writing, guarantee the performance by the Corporation of its undertakings under any agreement relating to the Project to which the Corporation is a party.

31. (1) Subject to such exceptions as may be contained in any commercial agreement to which it is a party, Nigeria or the Corporation unconditionally waives any immunity from suit, execution or other legal process in connection with any action or proceeding to obtain or enforce an arbitral award in relation to the Project.

(2) The amount of any award obtained against Nigeria or the Corporation under a dispute resolution procedure in any agreement relating to the Project to which it is a party will constitute conclusive evidence of the existence and amount of the claim against it.

PART VI — ENVIRONMENTAL PROVISIONS

32. The Company, its affiliates, shareholders or the Project Contractors shall be liable for any environmental damage that occurs by reason of any of the Project activities.

33. (1) The Company, any of its shareholders or their affiliates, lenders of the Company or the Project Contractors shall not be liable for any environmental damage that occurs other than by reason of any of the Project activities.

(2) Any environmental damage or adverse environmental effects identified in the environmental impact assessment of the Project as existing prior to the construction commitment date shall be deemed to have existed prior to the commitment of the Project activities and shall not be deemed to have been caused by the Company, its affiliates, shareholders or its lenders or Project contractors.

(3) No buyer, seller or shipper shall be liable for any environmental damage that was not caused by its activities.

34. Notwithstanding any exemption mentioned in section 33 of this Act, if an existing environmental damage which occurred prior to the construction commitment will be exacerbated by any environmental impact identified in the environmental impact assessment carried out for the Project, the Company, its affiliates or the Project Contractors shall take appropriate mitigation or remediation measures to prevent the worsening of the existing environmental damage.

PART VII — MISCELLANEOUS PROVISIONS

35. The Minister may, upon receipt of a copy of a notice from the WAGP Authority to the Company given in accordance with Article IV 2 (2) (a) (xiii) of the WAGP Treaty, make Regulations requiring as a matter of law the Company to comply with the provisions of the Access code.

36. (1) Subject to the provisions of subsection (2) of this section, none of the following shall constitute a breach of any law prohibiting or restricting any person from acting in concert or combination in relation to competition in a market or the fixing of prices, that is—

(a) the entry into the International Project Agreement by the Company or the
performance of its obligations thereunder;
(b) the acquisition of natural gas in a State by a buyer or shipper for transmission through
the pipeline system or the shipping of natural gas through the pipeline system or
through other pipeline facilities to the pipeline system by a buyer or shipper;
(c) the offer for sale or sale of natural gas in a State by a shipper or seller which is delivered
out of the pipeline system, or the delivery of natural gas into a State through the
pipeline system by a shipper or seller;
(d) the formation of the Company by the shareholders; or
(e) the formation of a buyer or seller or shipper by the shareholders or members of any
group or consortium.

(2) Except in relation to conduct specifically contemplated in the International Project
Agreement or the Access code, this subsection shall not —
(a) permit or authorise unreasonable discrimination against buyers or shippers;
(b) permit the conduct by the Company, a buyer, a seller or a shipper which constitutes
unfair discrimination; or
(c) permit a lessening of competition, or other conduct which may otherwise be regarded
under competition law as an abuse of a dominant market position.

37. (1) The pipeline system when placed in, under or over land, in accordance with the terms
of the license, shall remain the property of the company, notwithstanding any suspension,
termination, cancellation or expiry of the license.

(2) No third party shall acquire ownership or interest in the pipeline system merely by the
fact of its situation in, under or overland in which that third party has an interest.

38. Notwithstanding anything to the contrary in any enactment or law, any WAGP company
or any shipper may arrange any insurance coverage for its activities under this Act in any
country of its choice.

39. (1) Notwithstanding anything to the contrary in any enactment or law and subject to
subsection (2) of this section, the Company and the WAGP Authority shall carry out the
Project in accordance with the provisions of this Act.

(2) The following enactments or laws shall not apply to any WAGP Company, buyer, seller,
shipper and Project Contractor in respect of the Project, that is—
(a) sections 17 (I) and 18 of the Oil Pipelines Act and any regulations made pursuant to
the Oil Pipelines Act;
(b) the Petroleum Act and all regulations and statutory guidelines made thereunder;
(c) the Export (Incentives and Miscellaneous) Act (as amended);
(d) Wireless Telegraphy Act (as amended);
(e) Nigeria Investments Promotion Commission Act (as amended);
(f) Investment and Securities Act.

40. Subject to the Constitution of the Federal Republic of Nigeria, 1999, if any of this Act other law
in Nigeria is inconsistent with the provisions of this Act for the purposes of the Project, this
Act shall prevail and that other law shall to the extent of the inconsistency be consequentially
amended;

41. (1) In this Act, unless the context otherwise requires —
“access code” means an access code applying to all gas transportation agreements for
transportation of natural gas in the pipeline system other than foundation gas transportation
agreements, agreed by the Company and the WAGP Authority;
“accounting principle” means principles for accounting which are in accordance with
international accounting standards, on an accrual basis (as opposed to cash) unless otherwise
specifically provided in the International Project Agreement, with revenues attributed to
the accounting period in which they are earned, and costs and expenses to the accounting
period in which they are incurred without the need to consider when the amount is received or disbursed in connection with a particular transaction and costs and expenses deemed to have been incurred, in the case of physical items, in the accounting period when title passes, and in the case of services, in the accounting period when such services are performed;

“administrative fees” means any fees, charges or other imposts which are imposed or charged for services, materials or rights provided or granted by any State or State authority;

“affiliate” means, with respect to a person, any other person (or two or more persons acting together) that directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with that person, or who possesses or possess directly or indirectly the power to direct or cause the direction of the management and policies of that person, whether through the, ownership or voting securities, by contract, by law or otherwise;

“agreed fiscal regime” means the regime mentioned in section 23 of this Act and set out in the First Schedule to this Act;

“approval to operate” means an approval to operate the pipeline system given by the WAGP Authority to the Company in accordance with the International Project Agreement;

“Approved Pipeline Development Plan” means the Pipeline Development Plan which is approved by the WAGP Authority in accordance with the International Project Agreement, as it may be amended from time to time by the Company and the WAGP Authority;

“buyer” means a purchaser from a shipper of the natural gas which has been or is to be transported through the pipeline system;

“commercial agreements” means the gas purchase agreements, gas sales agreements, gas transportation agreements, interconnection agreements and credit security agreements defined as Commercial Agreements in the International Project Agreement;

“Commission” means Corporate Affairs Commission established under section 1 of the Companies and Allied Matters Act 1990;

“Committee of Ministers” means the committee established in accordance with Article X (1) of the WAGP treaty;

“Company” means the West African Gas Pipeline Company Limited;


“Construction commitment date” has the meaning given to it in the International Project agreement;

“Corporation” means the Nigerian National Petroleum Corporation established under the Nigerian National Petroleum Corporation Act 1990 and any of its wholly owned subsidiaries;

“debt” means any actual obligation (whether present or future, secured or unsecured) for the payment or repayment of money (excluding contingent liabilities, amounts owing to trade creditors, and other liabilities incurred in the ordinary course of business);

“ELPS” means the Escravos-Lagos Pipeline System located in Nigeria;

“enabling legislation” has the meaning given to it in the International Project Agreement;

“environmental impact assessment” has the meaning given to it in the International Agreement and the Environmental impact Assessment Act 1992;

“exempt goods list” means the list agreed by the Company and the WAGP Authority in accordance with Clause 29.13 of the International Project Agreement, and includes any amendments to that list agreed from time to time;

“fiscal laws” means laws in force in a State applying in respect of the Project and governing the fiscal topics addressed in the Agreed Fiscal Regime (including to the extent applicable, this Act);

“foreign currency” means any freely convertible currency, including US dollars, that is the lawful currency of a State (other than the lawful currency of any of the States);

“foundation gas transportation agreement” has the meaning given to it in the International Project Agreement;

“gas transportation agreement” means an agreement between a person and the Company for the
transportation by the Company on behalf of that person of natural gas through the pipeline system;

“Government” means the Federal Government of the Federal Republic of Nigeria;

“interest” includes all other forms of return in respect of a debt claim (other than repayment of the debt), including, for the avoidance of doubt, discounts, fees and charges;

“International Project Agreement” means the international project agreement made between the Republic of Benin, the Republic of Ghana, the Federal Republic of Nigeria, the Republic of Togo and the West African Gas Pipeline Company concerning the West Africa Gas Pipeline Project;

“Legislature” means the National Assembly of Nigeria;

“Minister” means the Minister for the time being charged with responsibility for petroleum;

“natural gas” means any hydrocarbons (or a mixture of hydrocarbons and other gases) which at a temperature of 60 degrees Fahrenheit and at atmospheric pressure are predominantly in a gaseous state;

“Nigeria” means either the Federal Republic of Nigeria or the territory of the Federal Republic of Nigeria, as the context may require;

“Non-WAGP Regime” means the legislation, regulations, principles of interpretation and application and any other features of the system of taxation applicable either generally or specifically in Nigeria, as amended, modified or enacted from time to time, which is not legislation introducing, amending, modifying, re-enacting or consolidating the agreed fiscal regime;

“Pipeline Development Plan” means the development plan for the pipeline system prepared in accordance with the International Project Agreement;

“pipeline licences” has the meaning given to it in the International Project Agreement;

“pipeline system” means a Natural gas pipeline running from the ELPS, through Benin and Togo, to a terminus initially near Takoradi, Ghana to be developed, built, operated and maintained by the Company under the terms of the International Project Agreement together with ancillary permanent facilities which are needed for the construction and operation thereof (including compression stations, metering stations, valve stations, pig launching and receiving stations and Supervisory Control and Data Acquisition systems (SCADA) and includes any extension or expansion;

“Project” or “West African Gas Pipeline Project” means the development of specifications, feasibility and market studies, design, financing, construction, ownership, operation and maintenance of the pipeline system;

“project activities” means activities undertaken within one or more of the States by a WAGP Company, the shareholders or the Project contractors in connection with the implementation of the Project;

“project authorisations” means all rights, permits, licences, consents, permissions, exemptions and approvals (including those identified in detail in the Approved Pipeline Development Plan) which are needed by a WAGP Company or a Project contractor for the successful implementation of the Project, or to fulfil commitments made under the commercial agreements or for the exercise of any of the rights of the Company under the International Project Agreement, and includes the pipeline licences;

“Project Contractors” means any contractors, sub-contractors, advisers or agents of the Company engaged in connection with the implementation of the Project;

“Project rights” means all of the rights, entitlements and benefits conferred on the Company by the International Project Agreement, including the right of the Company to be issued the Project Authorisations and to implement the Project in accordance with the terms of the International Project Agreement;

“relevant Minister” means the Minister of each State from time to time having power to make regulations under the enabling legislation;

“rules of procedure” means the rules of procedure to be established by the Relevant Ministers in accordance with Article VI of the WAGP Treaty;

“SCADA” means Supervisory Control and Data Acquisition System;
“sellers” means the sellers of natural gas which has been or is to be transported through all or part of the pipeline system;

“shareholders” means-
(a) the Chevron Texaco West African Gas Pipeline Company Limited;
(b) the Nigerian National Petroleum Corporation;
(c) the Shell Overseas Holding Limited;
(d) the Takoradi Power Company Limited and subject to the exercise of existing options to take up shares in the Company;
(e) Societe Beninoise de Gaz S. A, and
(f) Societe Togolaise de Gaz S. A,
and their successors and assigns each a “shareholder”

“shipper” means a person who enters into a gas transportation agreement with the Company;

“State authorities” means the Government and each aspect thereof at every level, including central, regional and local authorities or bodies, and all non-judicial instrumentalities, statutory bodies, taxing authorities, branches and sub-divisions of any of the foregoing, and any entity which is directly or indirectly controlled by Nigeria or one or more State Authorities; and includes the State Environmental Protection Authorities, the Tax Authority of Nigeria and the Technical Authority;

“State Environmental Protection Authorities” include-
(a) the Federal Ministry of Environment;
(b) the environmental section of the Department of Petroleum Resources of Ministry of Petroleum Resources;
(c) the Lagos State Environmental Protection Agency;
(d) the Ministry of Environment and Physical Planning of Lagos State;
(e) the Ogun State Environmental Protection Agency;
(f) the section or department of the Office of the Governor of Ogun State having responsibility for environmental matters; and
(g) the environmental section of the National inland Waterways Authority.

“States” means Benin, Ghana, Nigeria and Togo, each a “State”;

“Steering Committee” has the meaning given to it in the International Project Agreement;

“tax” or “taxes” means any existing or future taxes, levies, duties, customs imposts, contributions (such as social fund and compulsory medical insurance contributions), fees, assessments or other similar charges payable to or imposed by Nigeria or a State Authority, but does include Administrative Fees to the extent that they do not exceed a reasonable amount for the services, materials or rights provided or granted;

“tax authority” means-
(a) in respect of Benin, the Direction Generale des Imports,
(b) in respect of Ghana-
(i) in respect of value added tax, the Value Added Tax Service,
(ii) in respect of customs and excise duties, the Customs, Excise and Preventive Service, or
(iii) in respect of Income Tax or any other Tax matter, the Internal Revenue Service,
(c) in respect of Nigeria-
(i) in respect of income tax and valued added tax, the Federal Inland Revenue Service, and
(ii) in respect of customs and excise duties, the Nigerian Customs Service, and
(d) in respect of Togo, the Direction Generale des Imports, or in each case, their successor bodies;

“tax year” means a period of one year beginning on 1st January and ending on 31st December;

“Technical Authority” means the Ministry of Petroleum Resources;

“US dollars” or “US$” means the lawful currency of the united states of America;

“WAGP activities” include any activity of the Company or any subsidiary of the Company which—
(a) are engaged in by the Company or its subsidiary in relation to the pipeline system, business or for the purpose of furthering the West African Gas Pipeline system business, or
are agreed by the Company and the WAGP Authority to be a WAGP Activity but shall not include—

(i) the operation of local distribution companies or
(ii) any other activity agreed by the Company and the WAGP Authority not to be a WAGP Activity,

“WAGP Company” means the Company and any wholly owned subsidiary of the Company which is the subject of a notification to the WAGP Authority and the tax authorities in accordance with the International Project Agreement;

“WAGP Income” has the meaning given to it in paragraph 7 of the First Schedule to this Act;

“WAGP Treaty” means the treaty concerning the West African Pipeline project made between the Republic of Benin, the Republic of Ghana, the Federal Republic of Nigeria and the Republic of Togo concerning the West African Gas Pipeline Project;

“WAGP Tribunal” means the tribunal of that name established by the WAGP Treaty;

“WAGP Regulations” means regulations governing the construction and operation of the pipeline system (including the matters referred to in the Second Schedule to this Act), to be adopted by the Minister under this Act; and

“West African Gas Pipeline Authority” or “WAGP Authority” means the body established under the WAGP Treaty.

(2) Any term, word or phrase not specifically defined in this Act shall have the same meaning as in the International Project Agreement.

42. This Act may be cited as the West African Gas Pipeline Project (Special provisions, etc.) Act, 2005.

FIRST SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO AGREED FISCAL REGIME

PART I — GENERAL PROVISION RELATING TO AGREED FISCAL REGIME

1. (1) This Schedule sets out the principles and rules relating to the liability for, and the calculation of, and method of assessment of, tax on the Company (including payable by in respect of each other WAGP Company that is deemed to be a branch of the Company in accordance with paragraph 16(3) of this Schedule in relation to WAGP income.

(2) For the purposes of this Schedule all income accrued and expenses incurred by any WAGP Company in respect of WAGP activities shall be deemed to be income accrued and expenses incurred by the Company, and the Company shall accordingly be liable pay income tax in respect thereof.

(3) No WAGP Company other than the Company shall have any liability to income tax in respect of WAGP activities.

(4) The Non-WAGP regime shall not apply to any WAGP Company in respect of WAGP activities or WAGP income except as set out in this Schedule.

(5) All Income tax liabilities of the Company, and payments made by the Company in respect of those liabilities, shall be to the Tax Authority of Nigeria.

(6) The WAGP Authority will participate in the determination of the liability of the Company to pay Income Tax as set out below.

(7) The income tax liability of the Company shall be calculated by reference to tax years.

2. (1) The principles and rules relating to the liability for and the calculation of persons tax on buyers, sellers, shippers and project contractors shall be as set out in this Schedule.

(2) The Non-WAGP regime applying to such persons in respect of any activities contemplated in this Schedule shall be modified in accordance with this Schedule.

(3) If any WAGP Company undertakes any action, transaction or agreement (whether or not...
as a part of an arrangement or series of arrangements) where the principal purpose is—
(a) to obtain for the Company a relief (or increased relief) from, or repayment or increased repayment of, income tax on WAGP income imposed by this Schedule; or
(b) for the avoidance or reduction of a charge to such a tax or an assessment to such a tax, the amount of the relief, repayment or charge for the Company shall be the amount that would have been the case had the action, transaction or agreement or arrangements or series of arrangements not been undertaken.

3. (1) For the purposes of this Schedule—
“agreed fiscal regime” means the fiscal regime as set out in Section 23 of this Act and this Schedule;
“applicable person” means a WAGP Company or any other person (including Project Contractors, buyers, sellers and shippers) to whom the agreed fiscal regime is intended to apply;
“applicable rate” means a rate of interest equal to 15 per cent per annum, compounding annually;
“certification system” has the meaning given to it in the International Project Agreement;
“completion date” has the meaning given to it in the International Project Agreement;
“construction expenditure” has the meaning given to it in the International Project Agreement;
“debt” means any actual obligation (whether present or future, secured or unsecured) for the payment or repayment of money (excluding contingent liabilities, amounts owing to trade creditors and other liabilities incurred in the ordinary course of business);
“Dispute Resolution Procedure” has the meaning given to it in the International Project Agreement;
“Eligible Development Costs” has the meaning given to it in Schedule 16 of the International Project Agreement;
“equity” means total assets, including retained earnings and other surplus reserves less total liabilities;
(including Debt), the resulting sum equal to the values ascribed to common stock, preferred stock, capital surplus or paid in capital and retained earnings or earned surplus, as disclosed in audited accounts;
“Fiscal Review Board” means the Fiscal Review Board established in accordance with the WAGP Treaty;
“fiscal start date” has the meaning given to it in the International Project Agreement;
“income tax” means amounts payable by a WAGP Company in accordance with Part II of this Schedule;
“minor taxes” means taxes other than income tax, VAT and customs duties;
“Non-WAGP regime” means the legislation, regulations, principles of interpretation and application and any other features of the system of taxation applicable either generally or specifically in Nigeria, as amended, modified or enacted from time to time, which is not legislation introducing, amending, modifying, re-enacting or consolidating the agreed fiscal regime;
“reservation charge” has the meaning given to it in the International Project Agreement; and
“WAGP Authority Charge” has the meaning given to it in the International Project Agreement.

PART II — INCOME TAX

4. (1) Subject to the principles and rules set out in this Schedule, and in particular to paragraph 13 of this Schedule, the Company shall be liable to pay to Nigeria, in respect of each tax year, income tax at the rate of 35 per cent of its taxable income attributable to Nigeria in the tax year.
(2) The taxable income of the company attributable to Nigeria shall be calculated as set out below, following the apportionment between the States of WAGP of income, allowable expenses and capital allowances as set out in this Schedule.
(3) In calculating the amount due in respect of income tax from the Company to Nigeria, credit shall be given for any amount in respect of which an election is made by the Company under this paragraph.
(4) In this Part of this Schedule, “State liability” means—
(a) an amount of money which has been determined under the dispute resolution
procedure to be owing by Nigeria to the Company under Clause 36.4 of the
International Project Agreement;
(b) an amount of money which has been determined in accordance with this Schedule to
be owing by Nigeria to the Company under the fiscal laws (whether laws implementing
the provisions of paragraph 11 of this Schedule or paragraph 35 of this Schedule or
otherwise) and in respect of which no further appeal is permitted under Part VII of
this Schedule (whether as a result of the expiry of any time limit or otherwise) or in
respect of which Nigeria has confirmed that no appeal will be made by it;
(c) an amount of money which is deemed under sub-paragraph (5) or (6) of this
paragraph to be owed by Nigeria to the Company;
(d) an amount of money which has been determined under sub-paragraph (7) of this
paragraph to be owing by Nigeria to the Company; or
(e) interest on any of the above amounts arising under Clause 44.3 of the International
Project Agreement or paragraph 20 of this Schedule.

(5) Where the Company claims that an amount is owing by Nigeria to the Company under the
fiscal laws (whether laws implementing the provisions of paragraphs 19, 25, 35 (2) and (4) of this
Schedule, or otherwise), including interest thereon arising under paragraph 20 of this Schedule,
and in respect of which a further appeal is permitted under Part 7 of this Schedule, and in respect
of which Nigeria has not confirmed that no appeal will be made by it, the Company may give to
the WAGP Authority and to the Tax Authority of Nigeria written notice setting out particulars
of the amount in question and the circumstances in which the liability arose.

(6) If Nigeria disputes that any part of the amount set out in the notice is owing to the Company,
It may within 30 days of receipt of such notice make application to the WAGP Tribunal for
a determination that such amount or a part of it is not owing in this by Nigeria to the
Company and if Nigeria does not make such an application, or does not make it in respect
of the whole of the amount claimed, then for the purpose of this schedule the amount stated
in the notice or if Nigeria disputes only part of the amount stated in the notice, the balance
of the amount claimed, shall be deemed to be owing by Nigeria to the Company and shall
be a State liability in accordance with subparagraph (I) of this paragraph.

(7) If Nigeria makes an application in accordance with subparagraph (6) of this paragraph
to the WAGP Tribunal for a determination that an amount is not owing by it to the
Company and if—
(a) the application is dismissed in whole by the WAGP Tribunal, the amount stated in
the notice shall be deemed to be owing and shall be a State liability;
(b) the application is dismissed in part by the WAGP Tribunal the amount stated in
the notice which relates to that part of the application which was dismissed shall be
deemed to be owing and shall be a State liability; or
(c) the WAGP Tribunal makes a determination that an amount is owing, then that
amount shall be a State liability; or

(8) The Company may, by notice given in a return, elect to treat any part of a State liability
as a credit in the calculation of the amount of income tax due to Nigeria in respect of the
tax year to which the return relates and where a notice is given in accordance with this
paragraph the liability of the Company to income tax for the tax year to which the return
relates shall be reduced accordingly.

5. The taxable income for any period shall be equal to the amount of WAGP income attributable
to Nigeria for that period less the aggregate of—
(a) allowable expenses attributable to Nigeria for that period;
(b) capital allowances attributable to Nigeria in respect of that period; and
(c) any allowable losses available in Nigeria.

6. For the purposes of this Part of this Schedule—
(a) “income” means any receipts or realised gains of a revenue nature, determined in accordance
with the accounting principles and for the avoidance of doubt, income includes amounts
recovered by way of insurance claims, judicial or arbitral awards, recovered legal costs,
rental or refunds, proceeds from sale or exchange of plant or facilities or supplies, or sale

Interpretations
of some terms in
this Schedule.

Other persons.
or licence of intellectual property, where under the accounting principles such amounts would be treated as income; and

(b) “expenses” means any payment or outflow or depletion of assets or incurrence of liabilities, other than distributions to equity participants.

7. (1) Subject to subparagraph (2) of this paragraph, the amount of WAGP income for any tax year is the aggregate of —

(a) payments accrued by the Company during that tax year that are derived from natural gas transportation operations which are WAGP activities;

(h) income accrued during that tax year in respect of any debt claims in which the Company is the creditor;

(c) any other income incidental to WAGP activities accrued by the Company during that tax year; and

(d) any negative pool balance in respect of that tax year.

(2) WAGP income shall not include—

(a) any amount accrued in respect of the disposal of any capital asset other than an asset provided under subparagraph (1) (d) of this paragraph;

(b) any accrual in respect of the WAGP Authority charge or any part of the WAGP Authority charge;

(c) any dividend or any accrual in respect of any dividend received from any WAGP Company;

(d) any amount accrued or payable to a WAGP Company by a State under the International Project Agreement, except where and to the extent that the amount paid is compensations for or reimbursement of lost WAGP income, or

(e) any interest or other income accruing prior to the fiscal start date.

8. (1) Allowable expenses for a period means all expenses (other than non-allowable expenses) which are incurred in that period including accruals on any debt claims where the Company is the debtor wholly, exclusively and necessarily for the purpose of deriving WAGP income: Provided that expenses will be considered to be necessarily incurred where the Company believes at the time the expenses are incurred, that to incur the expenses is reasonable and appropriate to enable, facilitate, develop or make more efficient the carrying out of WAGP activities or the deriving of WAGP income.

(2) For the avoidance of doubt, expenses shall not cease to be allowable expenses solely as a result of being incurred in respect of related party transactions.

(3) For the purposes of this Schedule, an expense shall be treated as incurred at the time at which and to the extent that an accrual in respect of such expense is properly recordable in the accounts of the Company in accordance with the accounting principles or in the case of costs incurred by shareholders or their affiliates, in the account of that person in accordance with its accounting principles.

9 Non-allowable expenses means all expenses, other than allowable expenses, which shall include—

(a) expenses that are interest to the extent that—

(i) the average ratio of debt to equity for the consolidated group during the tax year exceeds 70:30 so that in calculating the amount of allowable expenses and non-allowable expenses where this ratio is exceeded the amount of the interest expense shall be prorated between the two in accordance with the amount of debt that falls within and exceeds this ratio, respectively;

(ii) such interest expense is incurred in an amount exceeding a reasonable commercial return for a borrowing between unconnected parties on the same terms for the same amount and entered into at the same time and for the same period and in the same currency as the relevant borrowing by the Company; and for the purpose of determining for the purposes of this paragraph whether any interest expense exceeds such a reasonable commercial return, if the Company and the WAGP Authority agree on a mechanism for determining reasonable interest rates for the
purposes of this paragraph, or if the WAGP Authority approves the terms of a finance facility, then any interest expense incurred under a facility which complies with that mechanism or under any facility the terms of which are so approved, shall not be a non-allowable expense, or

(iii) the debt in respect of which the interest expense accrues is incurred for the principal purpose of reducing the Company's tax liability;

(b) any expenses incurred in providing business entertainment or gifts, other than the cost of accommodation, food and drink attributable to any employee or director of any WAGP Company incurred in any of the States;

(c) legal fees or other costs of proceedings incurred in relation to arbitration or any determination under the International Project Agreement;

(d) any expenses incurred prior to the fiscal start date;

(e) any expenses already taken into account as a deduction in respect of any tax liability calculated by reference to net profits or gains of any shareholder or affiliate of a shareholder in any State;

(f) any expenses in relation to any purchase of goods or services from any shareholder or an affiliate of a shareholder to the extent that the consideration given exceeds the consideration which would be payable in an arms length transaction of substantially the same nature between unconnected parties;

(g) the cost of any letter of guarantee from shareholders or affiliates to the States which is given in relation to the International Project Agreement;

(h) fines and penalties imposed under any law of a State; and the costs of indemnities to employees, contractors or agents of any WAGP Company in respect of such fines and penalties;

(i) any general overhead or general head office costs incurred by shareholders or affiliates and recharged to any WAGP Company not including any amounts charged in respect of specific services supplied and separately invoiced by such shareholders or affiliates to the extent these exceed 1.5 per cent of the Company's aggregate allowable expenses, excluding the amounts to be recharged, for the relevant tax year;

(j) any depreciation for accounting purposes in the value of any assets;

(k) any Capital Expenditure or any debit for accounting; purposes arising by reference to any Capital Expenditure;

(l) any payment by the Company to the WAGP Authority which is reimbursable through the WAGP Authority charge; and

(m) any payment of, or on account of tax and any interest, supplement or penalty in respect of an underpayment of or on account of tax.

10. Claimed reliefs in respect of Nigeria are the allowable losses available in Nigeria plus capital allowances claimed in the return in respect of Nigeria for the relevant tax year.

11. (1) if in any tax year the amount of allowable expenses attributable to Nigeria exceeds the amount of WAGP income attributable to Nigeria, the excess shall be an allowable loss of the Company available in Nigeria for that tax year.

(2) An amount of allowable loss mentioned in subparagraph (1) of this paragraph shall be carried forward and may be claimed by the Company in any of the nine subsequent tax years in accordance with paragraph 5 and this paragraph of this Schedule.

(3) Where an amount of any allowable loss is claimed and utilised by the Company in Nigeria in any subsequent tax year—

(a) the amount, of the taxable income of the Company in Nigeria in respect of that tax year shall be reduced by the amount of allowable loss so claimed; and

(b) the amount of that allowable loss that may be carried forward for use in Nigeria in subsequent tax years shall be reduced by the amount so used.

(4) The Company shall be deemed to claim amounts of allowable loss in chronological order beginning with those that arose in the earliest available tax year.
12. (1) All eligible development costs, and to the extent not included in the eligible development costs, all allowable expenses incurred by the Company prior to the fiscal start date less the sum of all WAGP income derived by the Company prior to the fiscal start date, including the amount of any interest income accruing to the Company prior to the fiscal start date, will be the amount of the capital account as at the fiscal start date.

(2) At the end of each tax year ending after the fiscal start date, the amount of the capital account of the Company shall be adjusted by adding the amount of capital expenditure incurred by the Company in that tax year (other than capital expenditure) incurred prior to the fiscal start date, and subtracting an amount equal to the aggregate of the disposal proceeds for that tax year (but not so that the capital account may ever be a negative number).

(3) To the extent that the aggregate of the disposal proceeds for any tax year exceeds the amount of the capital account after adding the amount of capital expenditure incurred by the Company in that year but prior to adjustment in accordance with subparagraph (2) of this paragraph in respect of the amount equal to the aggregate of the disposal proceeds for that tax year or in accordance with this paragraph, the amount of the excess (the "negative pool balance") shall be treated as WAGP Income of the Company for the relevant tax year; and the amount of the capital account shall be reduced to zero.

(4) The Company may elect to claim an amount of relief (known as its "capital allowances") equal to not more than 25 per cent of the balance of its capital account at the end of the relevant tax year.

(5) The amount of the capital allowances shall be taken into account in reducing the taxable income of the Company for the relevant tax year as described in paragraph 5 of this Schedule, and shall be deducted from the capital account at the commencement of the next succeeding tax year.

(6) The capital allowances mentioned in sub-paragraph (5) of this paragraph shall not be claimed, and the balance of the capital account shall not be reduced until the tax year or part thereof which falls after the end of the income tax holiday period, and in subsequent tax years.

(7) The capital expenditure shall be—
   (a) the expenses of acquiring or improving any asset which is a capital asset; and
   (b) the expenses of capital services, but, in each case, shall not include any expenses that do not exceed US $10,000.

(8) For purposes of subparagraph (7) of this paragraph—
   (a) an asset is a capital asset if that asset is acquired not with a view to its sale for a profit, but for the enduring benefit of the business of the Project;
   (b) a service is a capital service if that service is not provided to or acquired by the Company to be utilised by the Company directly for an onward supply of goods and services with a view to profit, but is supplied for the enduring benefit of the business of the Project.

(9) The Company will keep a ledger in US dollars recording all capital expenditure incurred and the capital asset in respect of which that capital expenditure has been incurred.

(10) Where any capital asset is disposed of by the Company (other than a disposal which is disregarded in accordance with sub-paragraph (d) of paragraph 16 (3) of this Schedule), "disposal proceeds" shall arise in the tax year in which the disposal takes place and the amount of the disposal proceeds shall be the amount of the sale proceeds or the value of other consideration received for that capital asset.

13. (1) The income tax holiday period shall be the period starting on the fiscal start date, and lasting for 60 months.

(2) The Company shall notify the WAGP Authority and the Tax Authority of Nigeria promptly upon becoming aware of the first day on which a reservation charge is payable.

(3) No income tax shall be payable by the Company in respect of WAGP income arising prior to the last day of the income tax holiday period.

(4) If a tax year begins before and ends after the last day of the income tax holiday period, the amount of WAGP Income earned and allowable expenses incurred in that tax year in the part periods before the last day and after the last day of the income-tax holiday period
shall be calculated on a pro rata basis by apportionment of the total WAGP Income and allowable expenses of the tax year between the two periods according to the number of days falling before that last day and the number of days falling after.

(5) The maximum capital allowances claimable in respect of the period after the last day of the tax holiday period shall be prorated downwards in the same manner.

(6) The income tax payable in respect of taxable income arising during the tax year in question shall be calculated only by reference to WAGP Income and allowable expenses apportioned to the period after the last day of the income tax holiday period.

14. (1) All WAGP income, allowable expenses and capital allowances for a tax year shall be apportioned between each State in proportion to that State’s apportionment percentage for that tax year determined in accordance with sub-paragraph (2) of this paragraph, irrespective of where or how such WAGP income might have been earned or accrued or expenses incurred.

(2) In each tax year, the apportionment percentage of Nigeria shall be derived according to the following formula—

\[
APs = 45 \times \left( \frac{L_S}{L_T + (RC_S + RC_T)} \right) + 2.5. 
\]

where:

- \( APs \): the apportionment percentage of Nigeria in the tax year, expressed as a percentage;
- \( L_S \): the length of pipeline comprised in the pipeline system situated within Nigeria as at 1st of January in that tax year, which has been commissioned for which purpose the length of the pipeline within Nigeria shall be determined by the as-built survey carried out by the Company, and the length of lateral pipelines shall be included;
- \( L_T \): the total length of pipeline system as at 1st of January in that tax year, which has been commissioned for which purpose the length of the pipeline shall be determined by the as-built survey carried out by the Company, and the length of lateral pipelines shall be included;
- \( RC_S \): the sum of the quantities of reserved capacity which are reserved at any time for transportation of natural gas as at the 1st of January in that tax year, for delivery out of the pipeline system in Nigeria; and
- \( RC_T \): the total sum of the quantities of reserved capacity which are reserved at any time for transportation of natural gas as at the 1st of January in that tax year.

(3) The Company shall, not later than the 10th January in that tax year, notify the WAGP Authority and the Tax Authority of Nigeria of its calculation of the apportionment percentage of each State for that tax year.

(4) The WAGP Authority shall, not later than the 31st of January in that tax year referred to in sub-paragraph (3) of this paragraph, notify the Company, on behalf of all of the Tax Authorities, whether it accepts the correctness of such calculation.

(5) If the WAGP Authority notifies the Company that all of the Tax Authorities accept the correctness of the calculation, or if the WAGP Authority fails to notify the Company by the 31st of January, then the apportionment percentages for the tax year shall be as calculated by the Company.

(6) If the WAGP Authority notifies the Company that one or more Tax Authorities do not accept the correctness of the calculation, the dispute resolution procedure shall be used to determine the apportionment percentage to apply for that tax year and pending the final determination under the dispute resolution procedure, the apportionment percentages which during the previous tax year shall continue to apply.

(7) Upon the final determination of the apportionment percentages under dispute resolution procedure, there shall be an adjustment between the state (and applicable between the state and the company) of any monies paid by or to the company, without penalty or interest (including any supplement or in interest as set in paragraph 20 of this Schedule or any penalties set out under part VI of this Schedule).
The apportionment percentages to apply in any task year or the method of determining the apportionment percentages, may be adjusted by the state by written notice signed each relevant minister and delivered to the company prior to that tax year:

Provided, however that—
(a) the total of the apportionment percentages to apply in the tax year shall always equal 100 per cent;
(b) if a methodology is to be used to determine the division of the apportionment percentages between the States, the apportionment percentages shall be readily ascertainable not later than the 1st of January in the tax year concerned; and
(c) if on the 1st of January in a tax year adjusted apportionment percentages which the states intend to apply in that year are not readily ascertainable in accordance with sub-paragraph (b) of this paragraph, then the apportionate percentages which applied in the previous tax year shall continue apply.

15. (1) As from the commencement of the tax year in which fiscal start date occurs, the Company shall submit returns for (each a return and together, the returns) as set out in this Schedule to this Act.

(2) The returns will comprise the audited company accounts of the Company (prepared in accordance with the accounting principles) together with tax account showing the appropriate tax adjustments to the financial statements.

(3) The returns will include the results of the Company irrespective of the State to which they relate and the results of each other WAGP Company that is deemed to be a branch of the Company under this Schedule and shall be prepared in accordance with the basis and assumptions in Paragraph 16 (3) of this Schedule.

(4) The returns shall set out the WAGP income, allowable expenses and capital allowances for that tax year and the apportionment in accordance with Paragraph 14 (1) of this Schedule of those amounts to each States and shall include a calculation of the Company’s liability to income tax in each State for that tax year and the basis of that calculation.

(5) The Company shall maintain its accounting records and present its financial statements, income tax computations and returns in US dollars.

(6) The Company shall keep its original financial statement, income tax computations, returns and all reasonably necessary supporting documentation in premises situated within one of the States at the choice Company.

(7) The Company shall submit one return to the WAGP Authorities and one to the Tax Authority of Nigeria within six months of the end of the tax year, the final date of such six month period being the filing date.

(8) The Tax Authority of Nigeria together with the Tax Authorities of the other States shall jointly review the returns in conjunction with the WAGP Authority and prepare a single combined assessment on the basis of the information contained in the returns.

(9) The combined assessment shall show the calculation of the taxable income of the Company in each State for the tax year in question, and the Liability of the Company to each State for income tax in respect of the tax year in question, having credited any amount to be credited in accordance with this Schedule, and shall constitute a tax assessment (referred to in this Schedule as the “assessment”) by each individual State for the amounts so assessed in respect of that State.

(10) The WAGP Authority shall, on behalf of the Tax Authority in each State, issue the combined assessment to the Company within 90 days of the filing date:

Provided that, if the Company has not been provided with reasonable adequate information to justify the claims and calculations in the Returns, the WAGP Authority may, within 30 days of the filing date, request such further information as it may reasonably consider it necessary to justify the claims and calculations in the returns, in which case the issue of the combined assessment shall be not later than—
(a) ninety days following the filing date;
(b) thirty days after the Company provides such further information, such later date being the assessment due date.
(11) If the Company fails to submit returns in accordance with sub-paragraphs (1) to (7) of this paragraph, not later than the date failing 12 months after the filing date, the Tax Authority in Nigeria together with the Tax Authorities in the other States may jointly in conjunction with the WAGP Authority, prepare a combined assessment on the basis of the information they are aware.

(12) The combined assessment prepared in accordance with sub-paragraphs (8), (9) and (10) of this paragraph shall constitute a tax assessment by each individual State for the amounts so assessed in respect of that State.

(13) If, after the notification of a combined assessment prepared pursuant to sub-paragraph (1) of this paragraph, the Company submits returns in accordance with sub-paragraphs (1) to (7) of this paragraph, the returns shall be assessed in accordance with this Schedule and following such assessment, sub-paragraph (12) of this paragraph shall cease to have effect and this Schedule shall apply as if no combined assessment or assessment had been issued pursuant to this Part of this Schedule.

(14) If no assessment is issued in accordance with subparagraph (10) of this paragraph not later than the assessment due date, then the Company shall be deemed to have been assessed by the Tax Authority of Nigeria, exactly in accordance with the return filed by the Company and such deemed assessment shall constitute the assessment by Nigeria accordingly.

(15) An Assessment of liability to income tax of the Company shall only be in accordance with sub-paragraphs (10), (11) or (14) of this paragraph, and shall be made by the Tax Authority of Nigeria otherwise than in accordance with those paragraphs.

(16) An Assessment made under subparagraphs (10), (11) or (14) of this paragraph shall be without prejudice to the power for an amended or altered assessment to be made following an audit, in accordance with paragraphs 17 (4), (5) (6) of this Schedule.

16. (1) The Company shall promptly notify the WAGP Authority and the Tax Authority of Nigeria in writing, when any wholly owned subsidiary of the Company engages in WAGP Activities.

(2) The Company and any subsidiary in respect of which the Company gives a notice under this paragraph (together referred to as “the Consolidated Group”) shall be treated as a consolidated entity for the purposes of calculating the liabilities to income tax of the members of the Consolidated Group under this Schedule.

(3) For all purposes of Part II of this Schedule, each of the member of the consolidated Group other than the Company shall, with respect to the tax year in notice is given under subparagraph (1) of this paragraph and each subsequent tax year, be deemed to be a branch of the company in respect of WAGP income, allowable expenses and claimed reliefs and in particular—

(a) all income accruing to any other WAGP Company shall be treated as if it is or was accrued by or to the Company;

(b) all allowable expenses incurred by any other WAGP Company shall be treated as if they are or were incurred by the Company;

(c) the belief, intent or purpose of the Company shall be the same as that of the WAGP Company concerned had no consolidation taken place;

(d) any payment to or receipts from another member of the Consolidated Group including, for the avoidance of doubt, dividends, any indebtedness between members of the Consolidated Group and all supplies and or disposals between members of the Consolidated Group shall be disregarded;

(e) any asset that is or was acquired, held or improved by any WAGP Company shall be treated as if it is or was acquired, held or improved by the Company;

(f) any indebtedness of or to any WAGP Company (other than any indebtedness disregarded pursuant to subparagraph (3) (d) of this paragraph) shall be treated as if it is or was indebtedness of or to the Company.

(g) any goods or services, other than any goods or services disregarded pursuant to subparagraph (3) (d) of this paragraph provided to or acquired by any WAGP Company
shall be deemed to be provided to or acquired by the Company;

(h) any action, transaction or omission of any WAGP Company shall be treated as an action, transaction or omission of the Company;

(i) any allowable loss that would have arisen to any member of the Consolidated Group other than the Company but for the bases and assumptions set out in sub-paragraphs (3) (a) to (h) of this paragraph shall be treated as an allowable loss of the Company; and

(j) each WAGP Company other than the Company shall have no liability to income tax in respect of WAGP activities or WAGP income.

(4) The Company shall submit returns, and assessments shall be issued to the Company, in accordance with the bases and assumptions set out in sub-paragraph (3) of this Schedule.

17. (1) The WAGP Authority may, on behalf of and as agent of the Tax Authority of Nigeria, request further information and conduct an audit of any return at any time during the period of six years from the filing date for that return.

(2) Except as otherwise provided in sub-paragraph (1) of this paragraph, no audit of the Company shall be conducted by the Tax Authority of Nigeria.

(3) The WAGP Authority shall be empowered to act on behalf of and as agent of the Tax Authority of Nigeria in dealing with the Company on a dispute as to an assessment or the outcome of an audit and any agreement reached between the WAGP Authority so acting and the Company shall be binding on the Tax Authority of Nigeria.

(4) The Company may, at any time during the six years following the filing dates submit amended returns for a tax year, one to each of the WAGP Authority and the Tax Authority of Nigeria in which case the Tax Authority of Nigeria shall issue an amended assessment or more than one amended assessments in accordance with paragraph 15 (8) and (9) of this Schedule within 90 days of receipt of the amended return, or if it fails to do so, paragraph 15 (14) shall apply.

(5) The WAGP Authority acting for and on behalf of the Tax Authority of Nigeria, may issue an altered assessment to the Company if it considers that a previous assessment was incorrect in any manner.

(6) If there is a dispute as to an assessment, then any agreement reached to resolve that dispute shall, in the absence of fraud, be binding on the WAGP Authority and the Tax Authority of Nigeria, and no assessment shall be issued which is inconsistent with such agreement.

18. All payments in respect of income tax shall be made in US dollars.

19. (1) Within 30 days of the commencement of each tax year, the Company will deliver to the WAGP Authority, an estimate of its income tax liability in respect of taxable income including, where applicable, as a result of paragraph 16 (3) of this Schedule for that tax year and the Company may vary any such estimate at any time during the year by written notice to the WAGP Authority.

(2) The Company shall make instalmental payments not later than each of the 31st March, the 30th June and the 30th September in each tax year and each payment shall be of an amount so that the Company following that payment has paid or is deemed to have paid an amount of income tax in respect of taxable income in Nigeria equal to the estimated income tax in respect of taxable income in Nigeria for the tax year multiplied by the product of 25 per cent and the number of installment payment dates that have then fallen due; and a final installment payment shall be made not later than the 31st December.

(3) The Company shall, at the same time as filing its returns for each tax year, pay a further installment payment equal to the amount of further income tax if any, which the returns indicate is owing by the Company.

(4) An adjusting payment, if any, shall be due within 30 days from the date on which the assessment is issued, from the Company to Nigeria if the result of the assessment is that further income tax is owing by the Company to Nigeria, or from Nigeria to the Company.
if the result of the assessment is that the Company has overpaid installment payments for the tax year in question.

(5) Any supplement due from the Company under paragraph 20 of this Schedule shall also be due on that date and in the event that the adjusting payment is due from Nigeria to the Company and any supplement is due from the Company to Nigeria, the amounts shall be netted off and only the remainder shall be due.

(6) If an income tax liability of the Company is adjusted following the issuance of an amended assessment or an altered assessment or following an appeal by the Company or a State, a further adjusting payment, if any, shall be due from, or as the case may be, to the Company within 30 days from the date of which the amended or altered assessment is issued or, as the case may be, the date on which judgment is given by the relevant appellate body together with interest at the applicable rate from the date on which the amended or altered assessment or decision on appeal is made.

20. (1) Where, for any tax year the amount of income tax due from the Company in Nigeria on the basis of the return for the tax year in question exceeds the product of 1.05, and the aggregate of the installments paid by the Company in Nigeria for the tax year in question pursuant to paragraph 19(2) of this Schedule, the Company shall pay, in accordance with paragraph 19 (4) of this Schedule, to Nigeria a supplement of an amount equal to 10 per cent of that excess.

(2) Interest payable in US dollars will be payable at the applicable rate on all other amounts owing by the Company to Nigeria or by Nigeria to the Company under the fiscal laws and no interest shall be due in respect of over or under payment of installments under paragraphs 19 (2) or (3) of this Schedule.

21. (1) No amount in respect of taxes will be required to be withheld or deducted from—

(a) the dividends declared by the Company or any dividends declared by any WAGP Company which are disregarded pursuant to paragraph 16 (3) (d) of this Schedule;

(b) subject to sub-paragraph (2) of this paragraph, the payments by or to the Company in respect of interest, principal or fees, charges or costs in respect of debt or any such payment by or to any WAGP Company that is disregarded pursuant to paragraph 16(3) (d) of this Schedule;

(c) the payments in respect of branch profits or repatriation of branch capital of the Company or any such payment by or to any WAGP Company that is disregarded pursuant to paragraph 16 (3) (d) of this Schedule;

(d) the payments made for sales of natural gas which has been or is to be transported through or consumed in the pipeline system; or

(e) the payments to a shipper or the Company for transportation of natural gas through the pipeline system or any such payment by or to any WAGP Company that is disregarded pursuant to paragraph 16 (3) (d) of this Schedule.

(2) If the Company makes any payment of interest to a person who is not resident in any of the States in respect of debt owed by the Company which was incurred other than in connection with the funding of construction expenditure or working capital or other costs incurred by the Company prior to the completion date or refinancing of debt originally incurred in connection with the funding of construction expenditure or working capital or other costs incurred by the Company prior to the completion date, then—

(a) the payment of interest shall be made subject to a withholding in respect of taxes of the lender, of 10 per cent of the gross payment;

(b) the amount of the withholding shall be paid by the Company to the Tax Authority of Nigeria in proportion to the apportionment percentages of Nigeria applying in the tax year in which the withholding is made; and

(c) the amount so paid to the Tax Authority of Nigeria shall be a final tax on income in Nigeria in respect of that interest.

(3) Where the Company receives services from a contractor within any of the States, the Company shall require a separate invoice in respect of the services that are rendered in Nigeria, or a breakdown showing the amounts invoiced in respect of services rendered in Nigeria.

(4) The Company shall, upon receiving such services mentioned in sub-paragraph (3) of this paragraph, apply a 6 per cent withholding in respect of the invoiced amount and shall
pay to the contractor the net amount and to the Tax Authority in Nigeria the amount withheld in respect of services rendered in Nigeria.

(5) Notwithstanding sub-paragraph (4) of this paragraph, no withholding shall be applied to services that are not rendered in Nigeria nor in any of the other States, nor will there be a withholding in respect of goods supplied to the Company, whether supplied in conjunction with services or otherwise.

(6) Where a withholding is applied under sub-paragraph (5) of this paragraph, the treatment of the withholding for the relevant contractor shall be as follows, that is—
(a) where the contractor is a resident of Nigeria, the withholding will be a refundable credit against taxation on income of that contractor in Nigeria; and
(b) where the contractor is not a resident of Nigeria, the withholding will be a final tax on income in Nigeria.

(7) For the purposes of this paragraph, of this Schedule, a service shall be considered to be rendered and received where the supplier of the services actually performs the services.

22 The Company shall notify the Tax Authority of Nigeria whenever to its knowledge it makes a payment of a dividend or an interest payment to a resident of Nigeria.

23. (1) A buyer, seller or shipper who is not a resident of Nigeria shall not be subject to taxation on his income in Nigeria unless he carries on business in Nigeria related to through a permanent establishment situated in Nigeria.

(2) Where a buyer, seller or shipper carries on business through a permanent establishment as specified in sub-paragraph (1) of this paragraph, his income may be taxed in Nigeria, but only so much thereof as is attributable to that permanent establishment.

(3) A buyer, seller or shipper who is a resident of two or more States shall be deemed to be a resident only of the State in which his place of effective management is situated.

(4) A buyer, seller or shipper who is a resident of any State shall be subject to taxation on income only in that State unless it carries on business in another State through a permanent establishment situated in that other State.

(5) If the buyer, seller or shipper carries on business as aforesaid, the income of that buyer, seller or shipper may be subject to taxation in that other State but only so much thereof as is attributable to that permanent establishment in that State.

(6) The amount of the income of that buyer, seller, or shipper that is attributable to that permanent establishment in that other State, and therefore subject to taxation in that other State, shall not also be subject to taxation in the State of residence.

(7) In this Part of this Schedule, the following expressions shall have the following meanings—
“resident” means, in respect of a State, a person which under the laws of that State is liable to taxation in that State by reason of its incorporation or registration in that State, or by reason of its place of management being in that State; but does not include a person liable to taxation in that State in respect only of income from sources in that State or capital situated therein; and
“permanent establishment” means, in respect of a State, a fixed place of business in that State through which the business of an enterprise is wholly or partly carried on, and a person shall not be regarded as a resident or having a permanent establishment in a State, by reason only that the person holds an interest in another person which is a resident of or has a permanent establishment in that State.

(8) Any question of apportionment of income or expenses or of profits to any permanent establishment shall be determined in a manner consistent with the provisions of Article 7 of the United Nations Model Double Taxation Convention of June 2001.

PART III — VALUED ADDED TAX

24. (1) The Non-WAGP regime in respect of Value Added Tax (in this Schedule referred to as “the VAT”) in Nigeria shall apply but with the following adaptations.

(2) In this Part, references to Nigeria include references to any State Authority having
authority in relation to VAT.

(3) All supplies of goods or services which are imported from outside Nigeria for the purpose of construction of the pipeline system shall be exempt for the purposes of VAT:

Provided that, in the case of goods—

(a) the relevant goods are items of plant, equipment, machinery or other materials to be used in the construction of the pipeline system and are listed on or are to be part of items listed on the exempt goods list; and

(b) they have been certified under the certification system as qualifying for this exemption.

(4) The VAT in respect of supplies of goods or services rendered in Nigeria shall to the extent that the relevant expenditure is capital expenditure be zero-rated.

(5) A supplier of goods or services shall be entitled to rely on a certificate given under the certification system as evidence that its supply is zero-rated.

(6) The VAT in respect of supplies of services rendered in Nigeria by contractors without a permanent business establishment in any State to a WAGP Company, where such supplies of services are not zero-rated or exempted in accordance with subparagraph (3) of this paragraph shall be chargeable in accordance with the Value Added Tax Act.

(7) Where the foreign contractor is registered for the purposes of VAT in Nigeria, the relevant WAGP Company which is deemed under paragraph 26 of this Schedule to be part of the VAT Consolidation shall make payment of that VAT directly to that foreign contractor and may assume that the relevant foreign contractor is bound to account to Nigeria.

(8) Where the payment mentioned under sub-paragraph (7) of this schedule is not made, the relevant WAGP Company which is deemed under paragraph 26 of this Schedule to be part of the VAT Consolidation shall withhold that VAT from the payment to the foreign Contractor and shall account for that VAT to Nigeria.

(9) Natural gas imported for transit, or for consumption in the course of the pipeline system operations will be exempted from VAT and natural gas imported for sale will be subject to existing Valued Added Tax Act in Nigeria:

Provided that the treatment shall be comparable to the treatment of competing fuels.

(10) The sale of natural gas in Nigeria for export through the pipeline system and the provision of services in Nigeria to facilitate the delivery of such natural gas into the pipeline system shall be zero-rated and all natural gas transportation services in respect of the pipeline system shall also be zero-rated.

(11) For the purposes of VAT, supplies of services shall be rendered where the supplier of services actually performs the services and supplies of goods rendered where title to the relevant goods passes.

25. (1) The Company, shall be entitled to refunds of all VAT paid or deemed VAT returns pursuant to sub-paragraphs (1) and (2) of paragraph 26 of this Schedule to be paid by and refunds, it in respect of supplies of goods and services to it or such supplies deemed pursuant to sub-paragraphs (1) and (2) of paragraph 26 of this Schedule.

(2) The Company shall submit to the Tax Authority in Nigeria a VAT return in respect of each month not later than the 30th day of the subsequent month.

(3) The Tax Authority in Nigeria will, within 30 days of the submission of the VAT return, reimburse the Company, in the currency or currencies in which the Company made the payments concerned an amount equal to the VAT refund due in respect of the supplies received during the period to which that return relates.

(4) Any amount of VAT refund not reimbursed to the Company concerned within 30 days of submission of a VAT return by the Company shall bear interest at the applicable rate from that date until the date of actual payment or effective date of a credit as set out below.

(5) If the Tax Authority in Nigeria fails to refund an amount due in respect of such a period of account, following the Company having made all reasonable efforts to recover that
amount from the State Authority in question the Company may claim a credit in respect of that payment due in the calculation of income tax payable in Nigeria by the Company in accordance with sub-paragraph (1) of this paragraph.

(6) If the Company claims a credit in accordance with paragraph 4 of this Schedule, Nigeria shall cease to owe that amount to the Company under this paragraph with effect from the time when, due to the credit, it pays a lesser amount of income tax than it would otherwise have paid.

26. (1) The Company shall, to the extent that it has not already done so in accordance with paragraph 16(1) of this Schedule, give notice in writing to the WAGP Authority, and to the Tax Authority of Nigeria of the name and registered office of any other WAGP Company carrying out WAGP Activities within its jurisdiction.

(2) The Company and all other WAGP Companies operating in Nigeria shall for the purposes of VAT Consolidation, be deemed to be a single entity for the purposes of calculating their liabilities to, and rights to a refund in respect of VAT under this Schedule and their other rights and obligations under this Part 3 of this Schedule.

(3) For all purposes of this Schedule, the business carried on by each of the WAGP Companies that are members of the VAT Consolidation shall, with respect to the VAT period in which a notice is given in accordance with sub-paragraph (1) of this paragraph and each subsequent VAT period, be treated as carried on by the Company and in particular—

(a) any supply of goods or services by any member of the VAT Consolidation to another member of the VAT Consolidation shall be disregarded;
(b) any other goods or services supplied by or to a member of the VAT Consolidation shall be treated as supplied by or, as the case may be, to the Company; and
(c) any payments of VAT made by any member of the VAT Consolidation shall be treated as a payment by the Company.

(4) The Company shall submit a VAT return and the Tax Authority of Nigeria shall make payments to the Company in accordance with the bases and assumptions set out in this Part of this Schedule.

PART IV — CUSTOMS DUTIES

27. (1) The non-WAGP Regime in respect of customs duties in Nigeria shall of customs apply subject to the provisions of this Part of this Schedule.

(2) For the purposes of this Part, “customs duties” includes all customs and excise duties, all import and export duties and all similar charges, fees, taxes, levies and duties.

(3) In this Part, a reference to Nigeria includes a reference to any State Authority having authority in relation to customs duties.

28. (1) Any goods imported for use on the pipeline system shall be exempt from customs duties; Provided that—

(a) the relevant goods are items of plant, equipment, machinery or other materials to be used in the construction of the pipeline system and are listed or are to be part of items listed on the exempt goods list; and
(b) they have been certified under the certification system as qualifying for this exemption.

(2) If subsequent to the importation of any asset without the payment of duty in accordance with the application of sub-paragraph (1) of this paragraph, that asset is utilised within any of the States other than for the purposes of the pipeline system, then the amount of duty will become due from the WAGP Company concerned that would have been due if the exemption had not been available on the initial importation.

29. Each WAGP Company shall pay local or national clearance fees, registration Payment of fees and any other fees in relation to the importation of capital assets.

30. No customs duties will be levied in respect of the import or export of natural gas.
PART V — OTHER TAXES

31. No taxes on income or profits or gains or any other corporate income taxes other than as described in Part II of this Schedule and no taxes on capital gains will be payable by any WAGP Company in respect of WAGP Income or Income derived from taxes WAGP activities or income falling within paragraph 7 (1) (b) of Part II of this Schedule.

32. The Non-WAGP regime in respect of payroll taxes and national insurance or social security contributions in respect of employees of any WAGP Company shall apply to that WAGP Company.

33. Each WAGP Company shall be liable to pay administrative fees of general application, but to the extent that administrative fees exceed an amount that is regular and necessary for the services, materials or rights provided or granted them shall be taxed.

34. Any gains arising from the sale of Securities as a consequence of the exercise of the rights set out in clause 6 of the international Project Agreement, or the proceeds of such sale, shall not be subject to taxation.

35. (1) The WAGP Companies shall, in respect of WAGP activities, be liable to taxes on income or profits or gains to VAT and to customs duties as set out in Parts II, III and IV of this Schedule, but not otherwise.

(2) Each WAGP Company shall be subject to all minor taxes within the Non-WAGP regime but to the extent that the combined payments of all WAGP Companies in respect of minor taxes to Nigeria and to any Tax Authority of Nigeria in a tax year in aggregate exceeds in respect of WAGP Activities an amount equal to US$50,000 adjusted for inflation as set out in sub-paragraph (3) of this paragraph, the amount of that excess shall be a debt owing by Nigeria to the Company.

(3) The amount of $50,000 shall be adjusted for inflation as follows, that is—

\[
AA = \frac{50,000 \times l_y}{l_0}
\]

Where—

\[
AA = \text{The adjusted amount for the tax year in question.}
\]

\[
l_0 = \text{The average of the inflation index for the twelve calendar months up to and including the 31st October prior to the calendar year in which FID occurs.}
\]

\[
l_y = \text{The average of the inflation index for the twelve calendar months up to and including the 31st October prior to the calendar year for which the calculation is being made.}
\]

(4) Where the Company considers that in a tax year, it or any other WAGP Company has paid in Nigeria in a tax year, minor taxes in excess of the adjusted amount determined in accordance with sub-paragraphs (2) and (3) of this paragraph the Company shall submit to Nigeria, with a copy to the WAGP Authority a statement specifying all minor taxes paid during the tax year and its calculation of the amount of the excess.

(5) Nigeria shall, within 30 days of the submission of such return reimburse the Company, in the currency or currencies in which the Company or other WAGP Company concerned made the payments, an amount equal to the amount due from Nigeria under sub-paragraphs (2) and (3) of this paragraph.

(6) Any amount not reimbursed to the Company concerned within 30 days of submission of such return by the Company shall bear interest at the applicable rate from that date until the date of actual payment.

(7) Where Nigeria fails to refund an amount due in respect of such a period of account, following the Company having made all reasonable efforts to recover that amount from Nigeria, the Company may claim a credit in respect of that payment due in the calculation of income tax payable in Nigeria by the Company in accordance with paragraph 4 (3) in Part II of this Schedule.

(8) If the Company claims a credit in accordance with this Act, Nigeria shall cease to owe
that amount to the Company under this Paragraph with effect from the time when, due
to the credit, it pays a lesser amount of income tax than it would otherwise have paid.

PART VI — PENALTIES

36. (1) The Tax Authority of Nigeria may impose penalties on the Company in accordance with this Part of this Schedule but may not otherwise impose penalties on the Company or any WAGP Company.

(2) The Tax Authority of Nigeria may impose in accordance with this Part VI a submit a fixed penalty payable by the Company to such Tax Authority if the Company fails to submit a return by the filing date for that return.

(3) The fixed penalty payable under paragraph 6 (2) will be—
(a) US $400, if the return is submitted within three months after the filing date; or
(b) US $800, if the return is submitted later than three months after the filing date but within 12 months after the filing date.

(4) The Tax Authority of Nigeria may impose in accordance with this Part VI a further penalty payable by the Company to such Tax Authority in addition to a fixed penalty if the Company fails to submit a return within twelve months after the filing date for that return.

(5) The further penalty imposed by the Tax Authority shall be 20 per cent of the unpaid income tax being the amount of the Income tax liability of the Company in Nigeria for the tax year concerned less the sum of the installments paid pursuant to paragraph 19 (2) for the tax year to which a return relates.

(6) The further penalty payable pursuant to sub-paragraph (5) of this paragraph shall be calculated by reference to the assessment of Nigeria under sub-paragraph (8), (9) or (11) to (14) of paragraph 15 of this Schedule, and shall subject to adjustment if the amount of such assessment is adjusted or altered whether under sub-paragraphs (4), (5) or (6) or paragraph 17 of this Schedule, or otherwise.

37. (1) The Tax Authority of Nigeria may impose in accordance with Part VI, a penalty payable by the Company to such Tax Authority if the Company knowingly and with an intention to deceive such Tax Authority—
(a) submits a return that contains material errors or omissions; or
(b) submits incorrect company accounts with any return that contains material errors or omissions.

(2) Where the Company discovers that there has been a material error or omission in a return or any company accounts submitted to the Tax Authority of Nigeria that was not included knowingly and with an intention to deceive such Tax Authority, the Tax Authority of Nigeria may impose in accordance with this Part VI a penalty unless the Company remedies the error or omission within a reasonable period.

(3) Where the Company discovers that there has been a material error or omission in a return or any company accounts submitted to the Tax Authority of Nigeria whether or not knowingly and with an intention to deceive and the error or omission is notified by the Company to such Tax Authority before such Tax Authority issues a notice under paragraph 40 (1) below in respect of that error then the Tax Authority of Nigeria may not impose a penalty and any subsequent notice under paragraph 40 (1) by such Tax Authority in respect of that error shall be invalid.

(4) The amount of a tax-related penalty payable by the Company under this paragraph shall not exceed the amount by which the amount of the liability of the Company to income tax in Nigeria for the tax year to which the return relates and according to the return including the material error or omission by the Company is less than the amount of the liability of the Company to income tax in Nigeria for the tax year to which the return relates and would have been payable if the return had not contained the error or omission concerned.

38. (1) The Company shall keep and preserve records necessary for the completion of each return in accordance with paragraph 15(5) and (6) of this Schedule.

(2) If the Company fails to comply with sub-paragraph (1) of this paragraph, the Tax Authority of Nigeria may impose on the Company a penalty not exceeding US $10,000.
39. (1) The Tax Authority of Nigeria may impose in accordance with this Part, a fixed penalty payable by the Company to such Tax Authority if the Company fails to submit a submit a VAT return on or before the due date for that VAT return.

(2) The fixed VAT penalty payable under this Schedule shall be—
(a) US $250, if the VAT return concerned is submitted within 30 days after the due date for that VAT return under Part 3 of this Schedule; and
(b) US $500, in any other case.

40. (1) In order to impose a fixed penalty, a further penalty or a tax related penalty on the Company in accordance with the provisions of this Part, the Tax Authority of Nigeria shall serve a notice in writing on the Company within 6 years of the filing date for the return to which the penalty relates.

(2) In order to impose a fixed VAT penalty on the Company in accordance with the provisions of this Part of this Schedule, the Tax Authority of Nigeria shall serve a notice in writing on the Company within 3 months of the due date for the VAT return concerned under paragraph 25 (2) of this Schedule.

(3) Where the Tax Authority of Nigeria serves a notice upon the Company, it shall specify the grounds for imposing the penalty, the amount of the penalty and the date which shall not be less than thirty days after the date on which the notice is received by the Company on which, in the absence of any appeal, the Company is to make payment of the penalty.

PART VII — APPEALS

41. Subject to the right to appeal to the WAGP Tribunal as set out below, the Fiscal Review shall have exclusive jurisdiction to hear applications filed by any applicable person for review of a decision or action or inaction of Nigeria, the Tax Authority of Nigeria, any other State Authority or the WAGP Authority in relation to the application of the agreed fiscal regime (including Non-WAGP Regime matters which are modified by the implementation of the Agreed Fiscal Regime), including the specific applications set out in this Part.

42. (1) Any WAGP Company or any other applicable person who is aggrieved or dissatisfied by a decision or action or inaction of Nigeria, the Tax Authority of Nigeria, any other State Authority or the WAGP Authority in relation to the application of the fiscal laws, may apply to the Fiscal Review Board, and beyond it to the WAGP Tribunal as set out in this Part, for a review of or to appeal that decision or action or inaction or for a direction to Nigeria, the Tax Authority of Nigeria, other State Authority or WAGP Authority in respect of such matter, in accordance with this Part.

(2) The right of appeal or review under this Part shall extend to all matters covered by the Agreed Fiscal Regime, including Non WAGP Regime matters which are modified by the implementation of the agreed fiscal regime.

(3) Nigeria or a State Authority which is aggrieved or dissatisfied by a decision of the Fiscal Review Board may appeal the decision of the Fiscal Review Board in accordance with this Part but where the matter being appealed is a matter arising under Part II of this Schedule (other than an appeal in relation to the application of paragraph 4 or in respect of matters covered in paragraphs 21 and 23 of this Schedule), then an appeal shall lie only if all States or the equivalent State Authority in all States joins in the appeal.

43. (1) Any applicable person who is dissatisfied with—
(a) any Assessment or any amended or altered assessment issued by the Tax Authority of Nigeria; or
(b) the failure of Nigeria to issue an amended assessment following the submission of amended returns in accordance with Part II of this Schedule,
may appeal to the Fiscal Review Board by written notice to the WAGP Authority, copied to the Tax Authority of Nigeria.

(2) Any applicable person who is dissatisfied with any imposition of a withholding or deduction contrary to paragraph 21 of this Schedule or the failure of Nigeria to treat any withholding in accordance with paragraph 21(6) of this Schedule, may appeal to the Fiscal Review Board by notice in writing to the WAGP Authority, copied to the Tax Authority of Nigeria.

(3) The notice required to be given under this paragraph, shall be given—
(a) in the case of sub-paragraph (1) (a) of this paragraph, within 30 days of the date on which the assessment, amended assessment or altered assessment is issued; or
(b) in the case of sub-paragraph (1) (b) of this paragraph, within 135 days of the submission of the amended returns as referred to in paragraph 17 (4) of this Schedule; or
(c) in the case of sub-paragraph (2) of this paragraph, within 30 days of the date on which the Tax Authority of Nigeria seeks to impose the withholding or deduction or the date on which Nigeria fails to treat the withholding in accordance with Part II of this Schedule.

44. (1) If any applicable person is dissatisfied with—
   (a) any refund of VAT by Nigeria or a State Authority including as to the amount of any interest due;
   (b) any refusal by Nigeria or a State Authority to make a repayment of VAT including as to the amount of any interest due;
   (c) any requirement of Nigeria or a State Authority that VAT be paid or charged; or
   (d) any refusal in whole or in part by Nigeria or a State Authority to allow a credit for Tax in respect of VAT paid and not refunded,
      may appeal to the Fiscal Review Board by written notice to the WAGP Authority, copied to the Tax Authority of Nigeria and to any other State Authority involved.

   (2) Such notice mentioned in sub-paragraph (1) of this paragraph must be given within 60 days of the matters giving rise to the dissatisfaction of the applicable person came to its attention.

45. (1) If any applicable person is dissatisfied with any imposition of any Customs duties pursuant to Part IV of this Schedule by Nigeria, may appeal to the Fiscal Review Board by written notice to the WAGP Authority, copied to the Tax Authority of Nigeria.

   (2) Such notice must be given within 60 days of the date on which the matters giving rise to the dissatisfaction of the applicable person came to its attention.

46. (1) If any applicable person is dissatisfied with any imposition of any Tax or by Nigeria or a State Authority contrary to the provisions of the fiscal laws or by the failure of Nigeria or a State Authority or the WAGP Authority to comply with the fiscal regime laws or to correctly apply the Non-WAGP regime as modified by the implementation of the agreed fiscal regime, it may appeal to the Fiscal Review Board by written notice to the WAGP Authority, copied to the Tax Authority of Nigeria and any other relevant State Authority.

   (2) The notice mentioned in sub-paragraph (1) of this paragraph shall be given within 90 days of the date on which Nigeria seeks to impose the Tax concerned or the final decision of Nigeria or the State Authority which gives rise to the dissatisfaction.

47. (1) If any applicable person is dissatisfied with any imposition of any interest penalty under Part VI of this Schedule for any demand for interest by the Tax Authority of Nigeria under paragraph 20 (2) of this Schedule or any refusal of the Tax Authority of Nigeria or Nigeria to pay interest pursuant to paragraph 20 (2) of this Schedule, it may appeal to the Fiscal Review Board by written notice to the WAGP Authority, copied to the Tax Authority of Nigeria.

   (2) The notice mentioned in sub-paragraph (1) of this paragraph shall be given within 30 days of the date on which the Tax Authority of Nigeria seeks to impose the penalty or the interest or the day on which the interest was due and payable by such Tax Authority.

48. (1) The Fiscal Review Board shall conclude, on the basis of the information and evidence submitted to it, what the correct amount of Tax due from, or repayment of Tax due to, the applicable person should be, being satisfied on the balance of probabilities. A decision of the Fiscal Review Board shall constitute an administrative decision of the Tax Authority of Nigeria.

   (2) The decisions of the Fiscal Review Board shall be binding on the parties to its proceedings, shall be recognised as final, effective and immediately enforceable as of their notification within the domestic legal and fiscal systems of Nigeria and a against any State Authorities of Nigeria (to the extent Nigeria was a party to or regularly joined in the proceedings), subject to the parties’ right to appeal to the WAGP Tribunal as set out below.

49. The WAGP Tribunal shall have exclusive jurisdiction to hear and determine the appeals and applications provided for it in this Schedule.
50. (1) Any party in proceedings before the Fiscal Review Board may, apply to appeal or the WAGP Tribunal if they are dissatisfied with the findings of the Fiscal Review Board so far as that finding is a finding of law, but shall not be so entitled if that finding is a finding of fact.

(2) Whether a finding is a finding of law or of fact shall be the decision of the Fiscal Review Board acting reasonably and in good faith and taking into account the submissions of each party.

(3) Any such decision may be appealed against to the WAGP Tribunal by any of the parties before the Fiscal Review Board.

(4) Nigeria may also bring an application to the WAGP Tribunal in accordance with paragraph 4 (6) of this Schedule.

51. (1) The WAGP Tribunal shall conclude, on the basis of the information findings of fact submitted to them, what the correct amount of tax due from or repayment of tax due to, the applicable person should be being satisfied on the balance of probabilities.

(2) The WAGP Tribunal shall reach its determination fairly, in accordance with the facts, the governing law and all relevant agreements including, for the avoidance of doubt, the International Project Agreement and if the WAGP Tribunal is unable to agree unanimously on its decision, a majority decision shall apply and shall be binding on the parties.

(3) The decisions of the WAGP Tribunal shall be binding on the parties to its proceedings, and shall be recognised as final, effective and immediately enforceable as of their notification within the domestic legal and fiscal systems of Nigeria and as against any State Authorities of Nigeria (to the extent Nigeria was a party to or regularly joined in the proceedings).

52. The procedures for the conduct of appeals or applications to the Fiscal Procedures, Review Board or the WAGP Tribunal shall be as set out in the WAGP Treaty and the Rules of Procedure.

53. (1) Where an applicable person is appealing a liability to tax only in part, it shall make payment in respect of the part of the liability to tax that is not disputed and such payment shall be taken into account by the Fiscal Review Board or WAGP Tribunal, as the case may be, in assessing the amount of any liability to tax and interest, if any, due under sub-paragraphs (5) to (7) of this paragraph following its judgment.

(2) In the conduct of an appeal, no party to the appeal shall be obliged to disclose any document which it reasonably considers contains legal advice provided by a legal adviser including for the avoidance of doubt, any legal adviser employed as such by such party in respect of the appeal or otherwise and shall be entitled to disclose parts only of documents where part of such document is relevant to the appeal but parts are not, or parts contain legal advice that the party concerned shall not be obliged to disclose, and parts do not.

(3) The parties to proceedings before the Fiscal Review Board or WAGP Tribunal shall be free to settle the appeal by agreement of all such parties on such terms as they see fit at any time, including during the hearing, in which case the appeal and the hearing shall, to the extent of the settlement, come to an end and no further appeal shall be available.

(4) Any agreement made pursuant to sub-paragraph (3) of this paragraph shall not be effective unless it is made in writing signed by the appropriate representative of all the parties to the proceedings.

(5) The Fiscal Review Board and the WAGP Tribunal may in reaching its judgment, grant to a party or parties to the hearing a right to receive from the other party or parties a payment in respect of the costs of the first party or parties.

(6) The Fiscal Review Board and the WAGP Tribunal may also order that Interest is payable at a rate not exceeding the Applicable Rate for any period it considers to be reasonable.

(7) Any amount of costs or interest under this paragraph 53 of this Schedule received by a party to such a proceeding shall not be taxable in the hands of that party and no payment by a party of an amount awarded under this paragraph shall be deductible as an allowable expense.
SECOND SCHEDULE

MATTER OF THE WAGP REGULATIONS

1. The WAGP Regulations shall—
   (a) be consistent with the international Project Agreement;
   (b) adopt the Agreed Design Standards as defined in the international Project Agreement;
   (c) accord with internationally acceptable industry standard; and
   (d) accord with recognised good practice applicable to high pressure natural gas pipelines.

2. The WAGP Regulations shall not govern the environmental standards which shall be applied to the pipeline system and implemented in the construction and operation of the pipeline system, or the procedures for obtaining environmental approvals, which standards and procedures shall remain the subject matter of the prevailing environmental legislation applying in each State.

3. The WAGP Regulations shall include without limitation, regulations addressing the following matters—
   (a) standards and procedures for the design and construction of the pipeline the system incorporating the Agreed Design Standards;
   (b) standards and procedures for the testing and commissioning of the pipeline system incorporating the Agreed Design Standards;
   (c) standards and procedures for the operation and maintenance of the pipeline system including for the repair, testing and checking of the pipeline system, for internal and external corrosion, incorporating the Agreed Design Standards;
   (d) standards of and procedures for measurement to be used in the pipeline system;
   (e) health and safety requirements and practices for the pipeline system;
   (f) environmental operating requirements, including handling of leaks and discharges;
   (g) qualifications and experience required for operating personnel and companies;
   (h) requirements for periodic reporting to the WAGP Authority;
   (i) rights of inspection to be granted to the WAGP Authority;
   (j) a regime providing for the imposition of penalties on the Company for certain breaches of the WAGP Regulations in the operation of the pipeline system and for continuing events of default by the Company under the International Project Agreement;
   (k) procedures to deal with an emergency situation, including the circumstances in which the Company may be required to suspend its operations for reason of risk to health safety or the environment;
   (l) procedures for the termination or resumption of operation of the pipeline system including procedures for abandonment;
   (m) to the extent not included in the Rules of Procedure, procedures for the conduct of hearings of the WAGP Authority where appropriate, under the WAGP Regulations; and
   (n) to the extent not included in the Rules of Procedure, procedures for review by the Committee of Ministers and the Fiscal Review Board and appeals to the WAGP Tribunal in accordance with the WAGP Treaty.

4. The WAGP Regulations shall provide for—
   (a) all drawings, plans, designs and other technical documents made or prepared by the Company for the purposes of the Project, and any plans for the fabrication or construction of the pipeline system which have been approved by the Steering Committee or its delegates prior to the establishment and empowerment of the WAGP Authority shall be deemed to have been duly approved by the WAGP Authority;
   (b) all actions, other than those identified in sub-paragraph (a) of this paragraph, taken in accordance with the International Project Agreement or this Act by the Steering Committee or its delegates prior to the establishment and empowerment of the WAGP Authority which are functions of the WAGP Authority, shall be deemed to have been duly taken by the WAGP Authority;
   (c) any drawings, plans, designs and other technical documents made or prepared by the Company for the purposes of the Project, and any plans for the fabrication or construction of the pipeline system, which have been approved by the WAGP Authority.
Authority or its delegates or deemed to have been so approved by operation of sub-paragraph (a) of this paragraph prior to the entry into force of the WAGP Regulations, which are approvals provided for in the WAGP Regulations, shall be deemed to have been approved under the WAGP Regulations upon their entry into force; and

(d) all actions taken by the WAGP Authority or deemed to have been so taken by operation of sub-paragraph 4(b) of this paragraph prior to the entry into force of the WAGP Regulations, which are actions provided for in the WAGP Regulations, shall be deemed to have been duly taken under the WAGP Regulations upon their entry into force.

I certify, in accordance with section 2 (1) of the Acts Authentication Act, Cap. A2, the Laws of the Federation of Nigeria 2004, that this is a true copy of the Bill passed by both Houses of the National Assembly.

NASIRU IBRAHIM ARAB
Clerk to the National Assembly
20th Day of June, 2005

EXPLANATORY MEMORANDUM

This Act provides for national legislation to implement the obligations of the Federal Republic of Nigeria under the WAGP Treaty and the International Project Agreement of the West African Gas Project involving the Federal Republic of Nigeria and the Republics of Benin, Ghana and Togo.

SCHEDULE TO THE WEST AFRICAN GAS, PIPELINE PROJECT BILL 2005

<table>
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<th>(2) Long title of the Bill</th>
<th>(3) Summary of the contents of the Bill</th>
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<tr>
<td>West African Gas Pipeline Bill, 2005</td>
<td>An Act to provide for the implementation of the Treaty on the West African Gas Pipeline Project and the International Project Agreement; and for related matters.</td>
<td>This Bill seeks to provide for national legislation to implement the obligations of the Federal Republic of Nigeria under the WAGP Treaty and the International Project Agreement of the West African Gas Project involving the Federal Republic of Nigeria and the Republics of Benin, Ghana and Togo.</td>
<td>7th Dec., 2004</td>
<td>18th May, 2005</td>
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I ASSENT.

NASIRU IBRAHIM ARAB,
Clerk to the National Assembly
20th Day of June, 2005

CHIEF OLUSEGUN OBASANJO, GCFR
President of the Federal Republic of Nigeria
22nd Day of June, 2005
COASTAL AND INLAND SHIPPING (CABOTAGE) ACT, 2003

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SCHEDULE

COASTAL AND INLAND SHIPPING (CABOTAGE) ACT, 2003
[2003 ACT No. 5]

AN ACT TO RESTRICT THE USE OF FOREIGN VESSELS IN DOMESTIC COASTAL TRADE TO PROMOTE THE DEVELOPMENT OF INDIGENOUS TONNAGE AND TO ESTABLISH A CABOTAGE VESSEL FINANCING FUND; AND FOR RELATED MATTERS.

Commencement [30th April, 2003]

ENACTED by the National Assembly of the Federal Republic of Nigeria —

PART I — SHORT TITLE AND INTERPRETATION

Short title.
1. This Act may be cited as the Costal and Inland Shipping (Cabotage) Act, 2003.

Interpretation.
2. In this Act—
   “Cargo” means goods carried in or on a vessel whether or not of commercial value and includes livestock;
   “Coastal Trade” or “cabotage” means—
   (a) the carriage of goods by vessel, or by vessel and any other mode of transport, from one place in Nigeria or above Nigeria waters to any other place in Nigeria or above Nigeria waters, either directly or via a place outside Nigeria and includes the carnage of goods in
relation to the exploration, exploitation or transportation of the mineral or non-living natural resources of Nigeria whether in or under Nigerian waters;

(b) the carnage of passengers by vessel from any place in Nigeria situated on a lake or river to the same place, or to any other place in Nigeria, either directly or via a place outside Nigeria to the same place without any call at any port outside Nigeria or to any other place in Nigeria, other than as an in-transit or emergency call, either directly or via a place outside Nigeria;

(c) the carriage of passengers by vessel from any place in Nigeria to any place above or under Nigerian waters to any place in Nigeria, or from any place above Nigerian waters to the same place or to any other place above or under Nigerian waters where the carriage of the passengers is in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources in or under Nigerian waters; and

(d) the engaging, by vessel, in any other marine transportation activity of a commercial nature in Nigerian waters and, the carriage of any goods or substances whether or not of commercial value within the waters of Nigeria;

“enforcement officer” means a person so designated to be an enforcement officer for the purposes of this Act;

“enforcement unit” means the department within the National Maritime Authority charged with the responsibility of enforcing the provisions of this Act;

“Exclusive Economic Zone” has the meaning given to it under the Exclusive Economic Zone Act Cap. 116, Laws of the Federation of Nigeria 1990;

“foreign vessel” means a vessel other than a Nigerian vessel;

“hull” means the shell, or outer casting, and internal structure below the main deck which provide both the flotation envelope and structural integrity to the vessel in its normal operation;

“in-transit call” means any call, other than an emergency or technical call, by a vessel at any place where passenger go ashore temporarily but re-board the vessel before the vessel leaves that place or are transported by land to another location to re-board the same vessel and include cargo not discharged at the transit call;

“inland waters” has the meaning given to it under the National Inland Watersways Authority Act, 1997;

“licence” means a document issued pursuant to the Act, authorizing a foreign ship or vessel to be registered for participation in the coastal trade while in Nigerian Waters;

“master” in relation to a vessel has the same meaning as in the Merchant Shipping Act Cap. 224, Laws of the Federation of Nigeria 1990;

“Minister” means the head of the Ministry for the time being charged with the responsibility for matters relating to shipping and Ministry has the corresponding meaning;

“Nigerian citizen” means a citizen of Nigeria as defined in the Nigerian Constitution;

“Nigerian Vessel” means a vessel which is registered in Nigeria and has the meaning given to it in Section 23 (1) or (2);

“Nigerian waters” shall include inland waters, territorial waters or waters of the Exclusive Economic Zone (respectively, together or any combination thereof) and the meaning given to them by the National Inland;

“owner”, in relation to a vessel, includes the person having for the time being, either by law or by contract, the rights of the owner of the ship as regards the possession and use thereof;

“place above Nigerian waters” in the context of “coastal trade” includes any vessel, offshore drilling unit, production platform, artificial island, subsea installation, pumping station, living accommodation, storage structure, loading or landing platform, dredge, floating crane, pipe laying or other barge or pipeline and any anchor cable or rig pad used in connection therewith;

“superstructure” means the main deck and any other structural part above the main deck;

“Territorial waters” has the meaning given to it under the Territorial Waters (Amendment) Act 1998;
“vessel” includes any description of vessel, ship, boat, hovercraft or craft, including air
cushion vehicles and dynamically supported craft, designed, used or capable of being used
solely or partly for marine navigation and used for the carriage on, through or under water
of persons or property without regard to method or lack of propulsion;

“vessel built in Nigeria” means where all the major component of its hull and superstructure
are fabricated in Nigeria or assembled entirely in Nigeria;

“vessel wholly manned by Nigerians” means where all the shipboard officers and crew
employed aboard the vessel are exclusively of Nigerian citizenship;

“wholly owned Nigerian vessel” means a vessel which is owned and registered in Nigeria
whose 64 shares are beneficially owned by Nigerian citizens or a company registered in
Nigeria with 100 per centum of its share capital beneficially owned by Nigerian citizens and
the share in the vessel and the ship owning company shall be held by Nigerian citizens free
from any trust or obligation in favour of non-Nigerians.

PART II. — RESTRICTION OF VESSELS IN DOMESTIC COASTAL TRADE

3. A vessel other than a vessel wholly owned and manned by a Nigerian citizen, built and
registered in Nigeria shall not engage in the domestic coastal carriage or cargo and passengers
within the Coastal, Territorial, Inland Waters, Island or any point within the waters of the
Exclusive Economic Zone of Nigeria.

4. (1) A tug or vessel not wholly owned by a person who is a Nigerian citizen shall not tow
any vessel from or to any port or point in Nigerian Waters, or tow any vessel carrying any
substance whatsoever whether of value or not or any dredge material whether or not it has
commercial value from a port or point within Nigerian waters.

(2) Nothing in this Section shall preclude a foreign vessel from rendering assistance to
persons, vessels or aircraft in danger or distress in Nigerian waters.

5. A vessel, tug or barge of whatever type other than a vessel, tug and barge whose beneficial
ownership resides wholly in a Nigeria citizen shall not engage in the Petroleum carriage
or materials or supply services to and from oil rigs, platforms and installations and or the
carriage of petroleum products between oil rigs, platforms and installations whether offshore
or onshore or within any ports or points in Nigerian waters.

6. A vessel of whatever type or size shall not engage in domestic trading in the inland waters of
Nigeria except a vessel that is wholly owned by Nigerian citizens.

7. (1) In the case of rebuilding a vessel, such vessel, shall be eligible for cabotage services if
the entire rebuilding including the construction of any major components of the hull or
superstructure of the vessels is effected in Nigeria.

(2) Vessels built in a foreign yard but forfeited to any Nigerian Governmental authority for
breach of any laws of Nigeria or captured as war prizes are exempted from the Nigerian
built requirement.

8. (1) Sections 3-6 apply to every foreign vessel except any foreign vessel that is—

(a) engaged in salvage operations provided such salvage operation is determined by the
Minister to be beyond the capacity of Nigerian owned and operated salvage vessels
and companies;

(b) engaged with the approval of the Minister or any other relevant government agency in
activities related to a marine pollution emergency or to any threatened risk thereof;

(c) engaged in any ocean research activity commissioned by the Department of Fisheries
or any other department of the government responsible for such research; or

(d) operated or sponsored by a foreign government that has sought and received the
consent of the Minister of Foreign Affairs to conduct Marine Scientific Research.

(2) Notwithstanding the provision of subsection (1), the requirement for ministerial
determination shall not apply to any vessel engaged in salvage operations for the
purpose of rendering assistance to person, vessels or aircraft in danger or distress in
Nigerian waters.
PART III. — WAIVERS

9. The Minister may on the receipt of an application grant a waiver to a duly registered vessel on the requirement for a vessel under this Act to be wholly owned by Nigerian citizens where he is satisfied that there is no wholly Nigerian owned vessel that is suitable and available to provide the services or perform the activity described in the application.

10. The Minister may on the receipt of an application grant a waiver to a duly registered vessel on the requirement for a vessel under this Act to be wholly manned by Nigerian citizens where he is satisfied that there is no qualified Nigerian officer or crew for the position specified in the application.

11. (1) The Minister may on the receipt of an application grant a waiver to a duly registered vessel on the requirement for a vessel under this Act to be built in Nigerian where he is satisfied that no Nigerian shipbuilding Company has the capacity to construct the particular type size of vessel specified in the application.

   (2) The Ministry shall immediately after the commencement of this Act compile and publish information on the type, size and characteristic of vessels and craft which are built in Nigeria.

12. Where the circumstances described in Sections 9–11 apply, and the Minister has determined that a waiver be granted, the order for granting the waiver shall be—

   (a) in the first instance, to a shipping company and vessels owned by a joint venture arrangement between Nigerians citizens and non-Nigerians—

      (i) the equity shareholding of the Nigerian(s) joint venture partner in the vessel and the shipping company shall not be less than 60 per centum; and

      (ii) the percentage so determined to be held by Nigerian joint venture partner is held by Nigerian citizen(s) free from any trust or obligation in favour of non-Nigerians; and

   (b) in the second instance, to any vessel registered in Nigeria and owned by a shipping company registered in Nigeria provided that the applicant shall comply with all the relevant provisions of this Act.

13. A waiver granted under this Act shall specify the period of time for which it shall be valid, which period shall not in any circumstance exceed one (1) year.

14. (1) The Minister shall immediately after the commencement of this Act, establish and publish the criteria and guidelines for the issuance of waivers under issue this Act.

   (2) The waiver system provided for under this Act may be reviewed after five (5) years from the commencement of this Act by the National Assembly.

PART IV. — LICENCE TO FOREIGN VESSEL

15. (1) Upon application for a licence by a person resident in Nigeria acting on behalf of a foreign owned vessels; the Minister may issue a restricted licence for the foreign owned vessel to be registered for participation in the Coastal Trade, where the Minister is satisfied that—

      (a) any of the circumstances in sections 9–12 is applicable;

      (b) the foreign owned vessel is eligible to be registered in Nigeria;

      (c) the owning company of the foreign vessel has a representative office in Nigeria;

      (d) all applicable duties, levies and tariffs imposed by the relevant authorities applicable to foreign vessels with respect to its participation in the Costal Trade have been paid;

      (e) the foreign vessel possess all certificates and documents in compliance with international and regional maritime conventions whether or not Nigeria is a party to the conventions and that such certificates and documents are current and valid; and

      (f) the foreign vessel meets all safety and pollution requirements imposed by Nigerian law and any international conventions in force.

   (2) In making a determination referred to in subsection (1), the Minister may request from the applicant for the licence to which the determination relates, and from the owner of any Nigerian vessel to which the determination relates, such information and documentation as the Minister may deem necessary.

   (3) The issuance of a licence pursuant to subsection (7) does not affect the application to such foreign vessel of any Nigerian law that imposes safety or pollution prevention requirements in respect of vessels.

   (4) The licence issued under subsection (1) shall be carried on board the vessel at all times.
16. (1) The Minister may issue a licence under section 15 subject to any terms and conditions that the Minister considers appropriate including without restricting the generality of the foregoing terms and conditions respecting—
   (a) the service or foregoing that is to be performed by the foreign vessel to which the licence relates; and
   (b) the place or places where the foreign vessel may perform that service or activity.

   (2) Any licence granted under section 15 shall be for a fee and the Minister shall, by a notice in the Gazette, specify the amount of the licence fee and the terms thereof.

17. A licence issued pursuant to section 15 to a foreign vessel shall set out the period of time for which it is valid, which period shall not exceed one (1) year or the term of any certificate or document referred to in section 15(1)(e) provided that the licence term shall not in any circumstance exceed one year.

18. The Minister may by order, suspend or cancel a licence or vary the terms and conditions of a licence where—
   (a) the owner or master of the licenced vessel is convicted of an offence under this or any other Act of the National Assembly relating to navigation or shipping;
   (b) there has been a contravention of or failure to comply with any term or condition to which the licence is subject to; or
   (c) it is expedient to cancel, suspend or vary the licence or permit for reasons of national or public interest.

19. Where it is deemed expedient to grant a licence in conformity with the provision of this Act, the Minister shall impose a tariff on the vessel as a condition for granting the waiver.

20. The Minister shall immediately after the commencement of this Act, establish and publish the criteria and guidelines for the issuance of licences under this Act.

21. A foreign owned and foreign crewed vessel shall not participate in the domestic coastal trade without the licence and authorization required by the provisions of this Act.

**PART V — REGISTRATION**

22. (1) Notwithstanding the provisions of any other laws and subject to section 47 every vessel intended for use under this Act shall be duly registered by the Registrar of Ships in the Special Register for Vessels and Ship Owning Companies engaged in Cabotage and shall meet all the requirements for eligibility as set forth under this Act and the Merchant Shipping Act and its amendments to the extent that the said Merchant Shipping Act is not inconsistent with the provisions of this Act.

   (2) A vessel intended for use in the domestic trade whether for coastal or inland waters shall obtain all the applicable licences and permits as shall from time to time be determined by the Minister and the relevant Agencies of the Government.

   (3) In order to carry out its functions under this Act, the Minister shall on a continuous basis collect information and keep records in the Special Register concerning the availability, characteristics and uses of Nigerian vessels.

   (4) The Minister shall immediately after the commencement of this Act issue appropriate guidelines and criteria for the registration of bareboat chartered vessel in the Cabotage Register.

   (5.) Vessels eligible for registration under this Act include:
   (a) passenger vessels;
   (b) crew boats;
   (c) bunkering vessels
   (d) fishing trawlers;
   (e) barges;
   (f) off-shore service vessels;
   (g) tugs;
   (h) anchor handling tugs and supply vessels;
   (i) floating Petroleum storage;
   (j) dredgers;
(k) tankers
(l) carriers; and
(m) any other craft or vessel used for carriage on, through or underwater of persons, property or any substance whatsoever.

23. (1) Subject to sections 9-12 a vessel shall not be registered for use in the domestic trade unless the Minister is satisfied that—
(a) the vessel is wholly and beneficially owned by Nigerian citizens or by a company wholly and beneficially owned by Nigeria citizens and a vessel or company is wholly and beneficially owned by Nigerian citizens where all the shares in the vessel and the company are held by Nigerian citizens free from any trust or obligation in favour of any person not a citizen of Nigeria;
(b) the vessel is on bareboat charter to Nigerian citizens and is under this full control and management of Nigerian citizens or a company wholly and beneficially owned by Nigerian citizens in terms of subsection (1) (a);
(c) the vessel is owned by a company registered in Nigeria and the percentage of shares in the company owned by Nigerian citizens is not less than 60 per centum;
(d) any foreign vessel is licenced in compliance with Part II of this Act;
(e) the vessel is exclusively manned by officers and crew of Nigerian citizenship except where Section 10 applies; and
(f) the vessel possesses all certificates and documents in compliance with international and regional maritime conventions to which Nigeria is a party including all safety and pollution requirements imposed by a Nigerian law and any international convention in force.

(2) A vessel shall not be registered for use in the domestic trade unless the controlling interest in the company is owned by Nigerian Citizens.

(3) The controlling interest shall not be deemed to be vested in Nigerian Citizens—
(i) if the title to a majority of the shares thereof or 60 per centum are not held by such citizens free from any trust or fiduciary obligation in favour of any person not a citizen of Nigerian; or
(ii) if the majority of the voting power in such company is not held by citizens of Nigeria; or
(iii) if through any contract or understanding it is so arranged that more than 40 per centum of the voting power maybe exercised, directly or indirectly on behalf of any person who is not a citizen of Nigeria; or
(iv) if by any other means whatsoever control of any interest in the company in excess of 40 per centum is conferred upon or permitted to be exercised by any person who is not a citizen of Nigeria.

24. In the performance of his duties under this Part, the Minister shall take due care and carry out adequate investigation to ascertain the true ownership of vessels and ship owning companies and shall issue guidelines for determination thereof which shall include—
(a) the last certificate of registration of the vessel;
(b) the bill of sale;
(c) the ownership of shares in the company applying to be registered;
(d) the apportionment of shares in the vessel;
(e) a certificate under oath sworn to in a court of superior records by the owner, its duly authorized officer or agent establishing that such applicant has complied with the condition of this Act; and
(f) affidavit or statutory declaration by the owners of the owning company sworn to in a court of superior records stating their shares and the capacity in which the shares are held; and
(g) such further requirements as the Minister may specify.

25. Any vessel registered, granted a licence or permit in accordance with the provisions of this Act shall be deleted from the registry where it is determined that—
(a) a subsequent change in the ownership structure of the vessel or the owning company as the case may be has contravened the provisions of this Act under which the vessel was registered and the relevant provisions of the Merchant Shipping Act; or
(b) the required certification and documentation has expired or it is no longer, eligible for registration under the Merchant Shipping Act or under this Act.
26. (1) In the case of ship mortgage or ship financing by financial institutions a vessel would be eligible for registration under this Act where the following requirements are satisfied—
   (a) the vessel shall be under charter for a term not less than three years; and
   (b) the charterer or mortgagee shall meet the citizenship requirement for operating vessels in the domestic coastal trade under Parts II and IV of this Act;

   (2) In addition to the requirements under subsection (1), the charterer or mortgagee shall before registration produce an affidavit sworn to by the financial institutions in a court of superior records certifying that the financial institutions interest is solely and primarily a financial investment without the ability and intent to contract the vessel's operation to a non-citizen and that it does not derive a majority of its aggregate revenue from the operation or management of the vessel.

27. The Minister shall immediately after the commencement of this Act issue regulations and guidelines which shall permit foreign owned vessels engaged in the domestic trade, a temporary registration in the Nigerian Registry, which registration shall cover the duration of the contract for which the vessels are employed.

28. Any vessel registered under this Nigerian Registry at the date of coming into force of this Act and who is over 15 years old shall continue to be eligible for participation in the coastal trade for a period of five years after the commencement of this Act provided the vessel possesses a certificate of registry and a certificate of seaworthiness from a recognized classification authority.

PART VI. — ENFORCEMENT

29. (1) For the purpose of enforcing this Act, the Minister shall maintain in the office of the Registrar of Ships a separate Register for vessels intended for use in the domestic coastal and inland waters trade under this Act to be called Special Register for Vessels.

   (2) Notwithstanding the provisions of any other laws, the Register for vessels involved in the coastal and inland waters trade under subsection (1) of this section shall be for both large and small vessels.

30. (1) The Minister shall immediately after the commencement of this Act create an enforcement unit within the National Maritime Authority with appropriate operational guidelines and shall designate the officers in that unit as enforcement officers.

   (2) The National Maritime Authority shall issue every enforcement officer with an identity card of that designation which specifies the officer’s name and office, and on which appears a recent photograph of the enforcement officer.

   (3) In carrying out the duties and functions of an enforcement officer under this Act, an enforcement officer shall, if so requested, produce the identity card referred to in subsection (2) of this section to the person appearing to be in charge of any ship in respect of which the enforcement officer is acting.

31. (1) Where an enforcement officer believes on reasonable grounds that a vessel has contravened the provisions of this Act, the enforcement officer may stop and board the vessel, detain the vessel or its officers or both and, with a warrant, search the vessel and seize anything found in or on both vessel that the enforcement officer, believes on reasonable grounds shall afford evidence with respect to any contravention of this Act.

   (2) Notwithstanding the provisions of any existing Act, an enforcement officer may carry out the powers under subsection (1) of this section without a warrant if by reason of exigencies it would not be practicable to obtain a warrant.

   (3) While carrying out any of the powers under this section, an enforcement officer may—
   (a) require the owner, master or any other person who may have possession of the official log book of the ship, or any other document or paper that may provide evidence of the contravention, to produce, for inspection or for the purposes of obtaining copies thereof or extracts therefrom, the log book or other document or paper;
   (b) require the master of such ship to give such information relating to the ship, cargo, stores, crew, passengers or voyage as he may consider necessary;
   (c) require the master or any person found on board the ship to give all reasonable
assistance in the power of the master or other person, as the case may be, to enable
the enforcement officer to carry out the enforcement officer’s duties and functions
under this Act; and

(d) where necessary enlist the assistance of the Nigerian Customs Service, the Nigerian
Navy, the Nigerian Police and any other law enforcement agencies as he may deem
necessary.

32. (1) Where an enforcement officer believes on reasonable grounds that an offence under this
Act has been committed by or in respect of a vessel, the enforcement officer may without a
court order by reasons of exigent circumstance make a detention order in respect of the ship.
(2) A detention order made under subsection (1) shall as soon as it is practicable be
registered in court.

33. Notwithstanding the provisions of any other laws, no port clearance shall be granted to a
vessel engaged in domestic coastal shipping unless the owner, charterer, master or agent
satisfies the proper customs or such other authority authorized to issue port clearance that
the vessel is licensed to engage in domestic shipping or has the prescribed waiver.

34. Any person engaged in the business of employing vessels for the domestic coastal trade shall
specify and publish all the requirements to be satisfied with respect to the employment of
vessels.

PART VII. — OFFENCES

35. (1) A vessel commits an offence if the vessel contravenes;
(a) sections 3-6 and is liable on conviction to a fine of not less than ₦10,000,000.00 and or
forfeiture of the vessel involved in the offence or such higher sum as the Court may deem fit.
(b) section 21 and is liable on conviction to a fine of not less than ₦15,000,000.00 and or
forfeiture of the vessel or such higher sum as the Court may deem fit and.
(c) section 22 and is liable on conviction to a fine of not less than ₦5,000,000.00.

36. Any person who without reasonable excuse, fails to comply with a requirement made, or
direction given, by an enforcement officer under this Act commits an offence and shall on
conviction, if it is an individual, be liable to a fine not less than ₦100,000.00 and if the offence
is committed by a body corporate, be liable to a fine of not less than ₦5,000,000.00. officer.

37. (1) A person shall not, in purported compliance with a requirement under this Act or for any
other reason, provide to the relevant governmental authorities or an enforcement officer—
(a) information that is, to the person’s knowledge false or misleading in a material particular; or
(b) any document containing information that is, to the person’s knowledge false or
misleading in a material particular.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and on
conviction, if it is an individual be liable to a fine not less than ₦500,000.00 and if it is
a body corporate to a fine not less than ₦15,000,000.00 and or forfeiture of the vessel
involved with the offence.

38. When an offence is committed by a vessel under sections 3, 4, 5, 6 and 21 on more than one
day or is continued by the vessel for more than one day, it shall be deemed to be a separate
offence for each day on which the offence is committed or continued.

39. (1) Where an offence is committed under this Act or regulations made under it by a vessel, a
ship owning company or a body of persons—
(a) in the case of a vessel, the shipping company responsible for the vessel or the captain
of the vessel shall be deemed to have committed the offence.
(b) in the case of a ship owning company or a body corporate other than a partnership,
every director or an officer of the company or body shall also be deemed to have
committed the offence;
(c) in the case of a partnership every partner or officer of that body shall also be deemed
to have committed that offence.

(2) Any activity engaged in on behalf of a body corporate or a natural person by a director,
officer or agent of the body, or an officer or agent of the person, within the scope of his
or her actual or apparent authority is to be taken, for the purposes of a prosecution for an offence under this Act, to have been engaged in also by the body or person.

(3) An officer may be prosecuted and convicted of an offence under subsection (1) whether or not the body corporate has been prosecuted for or convicted of the offence.

(4) In this section an officer in relation to an offence committed by a body corporate, means—
(a) a director of the body corporate or other person however described, responsible for the direction, management and control of the body corporate; or
(b) any other person who is concerned in, or takes part in the management of the body corporate and whose responsibilities include duties with respect to the matters giving rise to the offence.

(5) A reference in this section to director of a body corporate is to be read as including a reference to a member of a body corporate incorporated under the laws of the Federal Republic of Nigeria.

(6) A reference in this section to engage in an activity is to be read as including a reference to failing or refusing to engage in the activity.

40. Any person who contravenes any provision of this Act or any regulations made there under commits an offence and shall on conviction, where no specific penalty is prescribed thereof, be liable to a fine not less than N500,000.00.

41. Jurisdiction over the matters and offence referred to in this Act lie with the Federal High Court.

PART VIII. — CABOTAGE VESSEL FINANCING FUND

42. (1) There is established a fund to be known as the Cabotage Vessel Financing Fund (herein in this Act referred to as “the Fund”)

(2) The purposes of the Fund shall be to promote the development of indigenous ship acquisition capacity by providing financial assistance to Nigerian operators in the domestic coastal shipping.

43. There shall be paid into the Fund—
(a) a surcharge of 2 per centurn of the contract sum performed by any vessel engaged in the coastal trade;
(b) a sum as shall from time to time be determined and approved by the National Assembly;
(c) monies generated under this Act including the tariffs, fines and fees for licences and waivers;
(d) such further sums accruable to the Fund by way of interests paid on and repayment of the principal sums of any loan granted from the Fund.

44. The fund shall be collected by the National Maritime Authority and deposited in commercial banks and administered under guideline that shall be proposed by the Minister and approved by the National Assembly.

45. The beneficiaries of the fund shall be Nigerian citizens and shipping companies wholly owned by Nigerians.

PART IX. — MISCELLANEOUS

46. (1) The Minister shall, in accordance with this Act and as practicable after the commencement of this Act make regulations for the purposes of this Act, and, in particular, may make regulations prescribing the criteria to be applied by the Minister for the making of the determinations referred to in sections 9-16.

(2) The Minister may from time to time make regulations for all or any of the following purposes:
(a) prescribing the manner or content of applications notice, or any other documentation or informations as may be required under this Act;
(b) prescribing the fees payable or the methods for calculating fees and recovering costs in respect of applications for permits, licences, loans and guarantees or other matters under this Act;
(c) prescribing the amount, methods for calculating the amount, and circumstances and manner in which holders of licences and permits shall be able to pay for participation
in the domestic coastal trade under this Act;
(d) requiring the holders of permits and licences granted for any activity under this Act to keep records for any purpose under this Act and prescribing the nature of records, information, and returns, and the form, manner, and times in or at which they shall be kept or furnished;
(e) requiring any person engaged in the employment of vessels for the domestic coastal trade to publish their pre-tender qualifications with respect to the desired vessels within a prescribed period; and
(f) providing for any other such matters as are contemplated by, or necessary for giving full effect to this Act and for its due administration.

47. Licences, waivers, approvals or permits referred to in this Act shall be carried on board the vessel at all times.

48. The Minister may in times of economic crisis or national emergency, by order, compel vessels registered under this Act, to provide essential services to sustain basic needs of people or to fulfil existing multi-lateral agreements.

49. (1) The Minister may by instrument delegate his powers, duty or function under this Act to any person to be exercised or performed by such person, as the case may be, and, if so exercised or performed, shall be deemed to have been exercised by the Minister.

(2) Any delegation by the Minister under this section may be revoked by instrument.

50. (1) Where any sum of money is mentioned in this Act, it shall be the value of such sum of money at the date of the coming into force of this Act.

(2) The value of such money shall be determined by the Central Bank of Nigeria from time to time and may be made public as and when required by the courts.

51. The provisions under this Act shall be enforced from the first anniversary of the day on which this Act comes into force, that is to say, 1 (one) year after the commencement date of this Act.

52. In the case of any vessel that, immediately prior to the coming into force of this Act, is operating pursuant to a valid coastal trade licence under the Merchant Shipping Act or Sea Fisheries Act, the provisions of this Act shall apply to that vessel in respect of any activity authorized to be performed by the licence from the day that licence would otherwise have expired had this Act not come into force.

53. (1) Any provision of any existing laws with respect to the registration of vessels, ownership, size and type of vessels, participation in Nigerian domestic coastal and inland waters trade in whatever form that is inconsistent with the provisions of this Act is repealed in so far as it affects matters under this Act and in particular as set out in the Schedule to this Act.

54. All of the provisions of the Merchant Shipping Act and other relevant legislation and regulations that are in force immediately before the commencement of this Act shall, so far as they are consistent with this Act continue to be in force.

55. Except as expressly provided in this Act, nothing in this Act shall effect the rights of any party to any proceedings commenced in any court on or before the commencement of this Act.
## SCHEDULE

### REPEALS AND AMENDMENT

<table>
<thead>
<tr>
<th>Short title of the Act</th>
<th>Repeal or Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Merchant Shipping Act, Cap. 224, Laws of the Federation of Nigeria, 1990</td>
<td>Section 5 is repealed</td>
</tr>
<tr>
<td>Merchant Shipping (Manning) Regulations Cap. 224, Laws of the Federation of Nigeria 1990.</td>
<td>Regulations 1(2) is repealed.</td>
</tr>
<tr>
<td>Merchant Shipping (Licenced Ships) Regulations Cap. 224, Laws of the Federation of Nigeria 1990.</td>
<td>Regulation 1 is repealed.</td>
</tr>
</tbody>
</table>

I certify, in accordance with Section 2(1) of the Acts Authentication Act, Cap. 4, Laws of the Federation of Nigeria 1990, that this is a true copy of the Act passed by both Houses of the National Assembly.

IBRAHIM SALIM, CON.  
Clerk to the National Assembly  
23rd April, 2003

### EXPLANATORY MEMORANDUM

This Act restricts the use of foreign vessels in domestic Coastal Trade, promotes the development of indigenous tonnage and establishes a Cabotage Vessel financing Fund.

### SCHEDULE TO THE COASTAL AND INLAND SHIPPING (CABOTAGE) BILL, 2003

<table>
<thead>
<tr>
<th>(1) Short title of the Bill</th>
<th>(2) Long title of the Bill</th>
<th>(3) Summary of the contents of the Bill</th>
<th>(4) Date Passed by the Senate</th>
<th>(5) Date Passed by the House of Representatives</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Coastal and Inland Shipping (Cabotage) Bill, 2003.</td>
<td>An Act to restrict the use of foreign vessels in domestic Coastal Trade, to promote the development of indigenous tonnage and to establish a cabotage vessel financing fund; and for related matters.</td>
<td>This Bill seeks to restrict the use of foreign vessels in domestic Coastal Trade, to promote the development of indigenous tonnage and to establish a cabotage vessel financing fund.</td>
<td>6-3-2003</td>
<td>12-3-2003</td>
</tr>
</tbody>
</table>

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. 4, Laws of the Federation of Nigeria 1990.

I ASSENT.

IBRAHIM SALIM, CON.  
Clerk to the National Assembly  
23rd April, 2003

CHIEF OLUSEGUN OBASANJO, GCFR  
President of the Federal Republic of Nigeria  
30th April, 2003
NATIONAL ENVIRONMENTAL STANDARDS AND REGULATIONS ENFORCEMENT AGENCY (ESTABLISHMENT) ACT, 2007

ARRANGEMENT OF SECTIONS

SECTION:

PART I — ESTABLISHMENT OF THE NATIONAL ENVIRONMENTAL STANDARDS AND REGULATIONS ENFORCEMENT AGENCY

1. Establishment of National Environmental Standards and Regulations Enforcement Agency.
2. Objectives of the Agency.
3. Establishment and composition of Council.
4. Tenure of office.
5. Cessation of membership.
6. Emolument, etc. of members.

PART II — FUNCTIONS AND POWERS OF THE AGENCY AND COUNCIL

7. Functions of the Agency.

PART III — STRUCTURE OF THE AGENCY

10. Directorates of the Agency.

PART IV — STAFF OF THE AGENCY

11. Appointment of Director-General and other staff of the Agency.
12. Pensions Act No. 2 of 2004

PART V — FINANCIAL PROVISIONS

15. Exemption from income tax.
17. Accounts and audit.
18. Annual report.
19. Investment.
20. Air quality and atmospheric protection.
21. Ozone protection.
22. Noise.
23. Federal water quality standards.
24. Effluent limitations.
25. Environmental sanitation.
26. Land resources and watershed quality.
27. Discharge of hazardous substances and related offences.
28. Removal methods, etc.
29. Co-operation with appropriate authorities.

PART VI — MISCELLANEOUS PROVISIONS

30. Power to enter premises.
31. Offences and penalties.
32. Legal Proceedings.
33. Power of Minister to give Directives.
34. Power to make regulations.
35. Application
37. Interpretations.
PART I — ESTABLISHMENT OF THE NATIONAL ENVIRONMENTAL STANDARDS AND REGULATIONS ENFORCEMENT AGENCY

1. (1) There is established a body known as National Environmental Standards and Regulations Enforcement Agency (in this Act referred to as “the Agency”).
   (2) The Agency—
      (a) shall be the enforcement Agency for environmental standards, regulations, rules, laws, policies and guidelines;
      (b) shall be a body corporate with perpetual succession and a common seal; and
      (c) may sue be sued its corporate name.

2. The Agency, shall subject to the provisions of this Act, have responsibility for the protection and development of the environment, biodiversity conservation and sustainable development of Nigeria’s natural resources in general and environmental technology including coordination and liaison with relevant stakeholders within and outside Nigeria on matters of enforcement of environmental standards, regulations, rules, laws, policies and guidelines.

3. (1) There is established for the Agency, a Governing Council (in this Act referred to as the “Council”) which shall consist of—
   (a) a Chairman who shall be appointed by the President, on the recommendation of the Minister;
   (b) the Permanent Secretary of the Federal Ministry of Environment or his representative;
   (c) a representative each, not below the rank of Director from the—
      (i) Federal Ministry of Solid Minerals Development,
      (ii) Federal Ministry of Agriculture and Natural Resources,
      (iii) Federal Ministry of Water Resources,
      (iv) Federal Ministry of Science and Technology,
      (v) a representative of the Standards Organisation of Nigeria,
      (vi) a representative of the Manufacturers’ Association of Nigeria,
      (vii) a representative of the Oil Exploratory and Production Companies in Nigeria.
   (d) the Director-General of the Agency; and
   (e) three other persons to represent public interest, to be appointed by the Minister of Environment.

   (2) A member of the Council, other than the chairman shall be appointed by the Minister on the recommendation of the body, if any, he represents.

   (3) With the exception of the Director-General, membership of the Council shall be on part-time basis.

   (4) The members of the Council shall be paid such allowances as provided under existing regulations on such payments.

   (5) The provisions of the Schedule to this Act shall have effect with respect to the proceedings of the Council and other matters mentioned therein.
4. A member of the Council appointed, otherwise than by office and the Director-General, shall hold office for a term of four years and shall be eligible for reappointment for only one further term of four years.

5. (1) The office of a member of the Council shall become vacant if:
   (a) he resigns as a member of the Council by notice in writing under his hand addressed to the Minister; or
   (b) the Minister subject to the approval of the President, is satisfied that it is not in the interest of the Agency for the person appointed to continue in office and notifies the member in writing to that effect.

   (2) If it appears to the Council that a member of the Council, other than an ex-officio member or the Director-General, shall be removed from office on the grounds of misconduct or inability to perform the functions of his office, the Council shall make a recommendation to the Minister.

   (3) If the Minister, after making such enquiries as he considers necessary, approves the recommendation, the Minister shall, in writing, declare the office of such a member vacant.

6. The Chairman and members of the Council shall be paid such emoluments, allowances and benefits in accordance with the existing regulations on such payment.

PART II — FUNCTIONS AND POWERS OF THE AGENCY AND COUNCIL

7. The Agency shall—
   (a) enforce compliance with laws, guidelines, policies and standards on environmental matters;
   (b) coordinate and liaise with stakeholders, within and outside Nigeria, on matters of environmental standards, regulations and enforcement;
   (c) enforce compliance with the provisions of international agreements, protocols. conventions and treaties on the environment, including climate change, biodiversity, conservation, desertification, forestry, oil and gas, chemicals, hazardous wastes ozone depletion, marine and wild life, pollution, sanitation and such other environmental agreements as may from time to time come into force;
   (d) enforce compliance with policies, standards, legislation and guidelines on water quality, environmental health and sanitation, including pollution abatement;
   (e) enforce compliance with guidelines and legislations on sustainable management of the ecosystem, biodiversity conservation and the development of Nigeria’s natural resources;
   (f) enforce compliance with any legislation on sound chemical management, safe use of pesticides and disposal of spent packages thereof;
   (g) enforce compliance with regulations on the importation, exportation, production, distribution, storage, sale, use, handling and disposal of hazardous chemicals and waste other than in the oil and gas sector;
   (h) enforce through compliance monitoring, the environmental regulations and standards on noise, air, land, seas, oceans and other water bodies other than in the oil and gas sector;
   (i) ensure that environmental projects funded by donor organizations and external support agencies adhered to regulations in environmental safety and protection;
   (j) enforce environmental control measures through registration, licensing and permitting systems other than in the oil and gas sector;
   (k) conduct environmental audit and establish data bank on regulatory and enforcement mechanisms of environmental standards other than in the oil and gas sector;
   (l) create public awareness and provide environmental education on sustainable environmental management, promote private sector compliance with environmental regulations other than in the oil and gas sector and publish general scientific or other data resulting from the performance of its functions;
   (m) carry out such activities as are necessary or expedient for the performance of its functions.

8. The Agency shall have power to—
   (a) purchase or take on lease any interest in land, building or property;
   (b) build, equip and maintain the offices and premises for the performance of its functions under this Act;
(c) lease out any office or premises held by it, which is no longer required;
(d) prohibit processes and use of equipment or technology that undermine environmental quality;
(e) conduct field follow-up of compliance with set standards and take procedures prescribed by law against any violator;
(f) subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999, and in collaboration with relevant judicial authorities establish mobile courts to expeditiously dispense cases of violation of environmental regulations;
(g) conduct public investigation on pollution and the degradation of natural resources, except investigations on oil spillage;
(h) open and operate ordinary and domiciliary accounts for the Agency in recognized banking institutions in Nigeria;
(i) borrow by overdraft or otherwise, with the approval of the Minister, such sums as it may require for the performance of its functions under this Act;
(j) accept gifts of land, money or other property, upon such terms and conditions, if any as may be specified by the person or organization making the gift, as long as such conditions are consistent with the functions of the Agency;
(k) submit for the approval of the Minister, proposals for the evolution and review of existing guidelines, regulations and standards on environment other than in the oil and gas sector including—
(i) atmospheric protection,
(ii) air quality,
(iii) ozone depleting substances,
(iv) noise control,
(v) effluent limitations,
(vi) water quality
(vii) waste management and environmental sanitation,
(viii) erosion and flood control,
(ix) coastal zone management,
(x) dams and reservoirs,
(xi) watershed management,
(xii) deforestation and bush burning,
(xiii) other forms of pollution and sanitation, and
(xiv) control of hazardous substances and removal control method.
(l) develop environmental monitoring networks, compile and synthesize environmental data from all sectors other than in the oil and gas sector at national and international levels;
(m) undertake, coordinate, utilize and promote the expansion of research, experiments, surveys and studies by public or private agencies, institutions and organizations concerning causes, effects, extent, prevention, reduction and elimination of pollution and such other matters related to environmental protection and natural resources conservation other than in the oil and gas sector as the Agency may, from time to time, determine;
(n) enter into agreement and contract with public or private organization and individual to develop, utilize, coordinate and share environmental monitoring programmes, research effect and basic data on chemical, physical and biological effect of various activities on the environment and other environmental related activities other than in the oil and gas sector;
(o) in collaboration with other relevant Agencies and with the approval of the Minister, establish programmes for certain standards and regulations for the prevention, reduction and elimination of pollution and other forms of environmental degradation in the nation's air, land, ocean, sea and other water bodies and for restoration and enhancement of the nation's environment and natural resources;
(p) collect and make available through publications and other appropriate means and in co-operation with public or private organisations, basic scientific data and other information pertaining to environmental standards;
(q) charge fees for tests, investigations and other services performed by the Agency;
(r) develop and promote such processes, methods, devices and materials as may be useful or incidental in carrying out the purposes and provisions of this Act; and
(s) do such other things other than in the oil and gas sector as are necessary for the efficient performance of the functions of the Agency.
9. The Council shall—
(a) be responsible for the appointment, promotion and discipline of the staff of the Agency;
(b) advise the Agency with regard to financial, operational and administrative matters;
(c) establish committees as may be expedient which shall be charged with specific functions;
(d) encourage and promote activities related to the functions of the Agency; and
(e) carry out such other activities as may be directed by the Minister.

PART III — STRUCTURE OF THE AGENCY

10. (1) The Agency shall have—
(a) Directorate of Administration and Finance;
(b) Directorate of Planning and Policy Analysis;
(c) Directorate of Inspection and Enforcement;
(d) Directorate of Environmental Quality Control; and
(e) Directorate of Legal Service.

(2) Each Directorate shall be headed by a Director.

(3) The Director of the Directorate of Legal Services shall also function as Legal Advice to the Agency.

(4) The Agency and its Directorates shall have adequate numbers of units and divisions as may be required in the discharge of the functions of the Agency.

(5) The Agency shall have zonal offices in the six (6) geopolitical zones of the country.

(6) The Agency may create such other departments, units or offices in any part of the Federation as may be required for the proper performance of the functions of the Agency.

PART IV — STAFF OF THE AGENCY

11. (1) The Director-General of the Agency shall be appointed by the President, on the recommendation of the Minister.

(2) The Director-General shall:
(a) be the Chief Executive and Accounting Officer of the Agency;
(b) be responsible for the day to day administration of the Agency;
(c) be a person with good working knowledge of the environment and with a minimum of 15 years postgraduate experience in environmental management or related discipline;
(d) hold office for a period of 4 years on such terms and conditions as may be specified in his letter of appointment and be eligible for re-appointment for another period of 4 years and no more.

(3) The Agency shall, from time to time, appoint such other persons as members of staff of the Agency as it may deem necessary, to assist the Agency in the performance of its functions under this Act.

(4) The appointment of staff in the junior cadre, shall be made by the Director-General while the appointment in the senior cadre, shall be made with the ratification and approval of the Council.

(5) The members of staff of the Agency appointed under subsection (3) of this section shall be appointed on such terms and conditions of service (including remuneration, allowances, benefits and pensions) as determined by the government.

(6) The promotion of staff in the junior cadre shall be as recommended by the Junior Staff Committee to the Director-General for ratification and approval.

(7) The promotion of staff in the senior cadre shall be as recommended by the Senior Staff Committee to the Council for ratification and approval.

12. (1) The service in the Agency shall be approved service for the purposes of the Pension Reform Act No. 2 of 2004.

(2) Notwithstanding the provisions of subsection (1) of this section, the Agency may appoint a person to any office on terms, which preclude the grant of pension or other...
retirement benefits in respect of that office.

(3) For the purpose of the Pension Reform Act, any power exercisable there under by a Minister or other authority of the Government of the Federation, other than the power to make regulations under section 34 of this Act is vested in and shall be exercised by the Agency and not by any other person or authority.

PART V — FINANCIAL PROVISIONS

13. (1) The Agency shall establish a Fund from which shall be defrayed all expenditure incurred by the Agency for the purposes of this Act.

(2) There shall be paid and credited to the Fund of the Agency:
   (a) adequate take off grant from the Federal Government;
   (b) annual subvention and budgetary allocations from the Federal Government;
   (c) loans and grants in aid from national, bilateral and multilateral agencies;
   (d) counter part funding as may be provided from time to time;
   (e) all sums accruing to the Agency by way of rents, fees and other internally generated revenues from services rendered by the Agency; and
   (f) all sums accruing to the Agency by way of gifts, endowments, bequeaths or other voluntary contributions by persons and organisations.

14. The Agency shall, from time to time, apply the funds at its disposal to—
   (a) the cost of establishing and maintaining the Head Office of the Agency at the Federal Capital Territory, Abuja and its offices located in other places in Nigeria;
   (b) the cost of compliance monitoring and enforcement activities;
   (c) pay allowances and other benefits of members of the Council and of its Committees;
   (d) pay the salaries and entitlements of the Director-General and other members of staff of the Agency;
   (e) pay the personnel, overhead, allowances, pensions, gratuities, benefits and other administrative costs of the Agency;
   (f) pay for attendance at local and international conferences related to its functions;
   (g) build capacity of members of staff of the Agency;
   (h) publicise and promote the activities of the Agency;
   (i) attend national and international scientific and professional seminars on environmental matters;
   (j) develop and maintain any property vested in or owned by the Agency;
   (k) pay for services and contracts entered into by the Agency; and
   (l) undertake any other activity in connection with all or any of the functions of the Agency.

15. All income derived by the Agency from the sources specified in section 13 (2) of this Act shall be exempted from income tax and all contributions to the Fund of the Agency shall be tax deductible.

16. The Agency shall submit to the President through the Minister, not later than 30th September each year, its programme of work and estimates of its income and expenditure for the following year.

17. (1) The Council shall keep proper accounts of the Agency and proper records in relation to those accounts.

(2) The accounts of the Agency shall be audited, not later than six months, after the end of the year to which it relates, by auditors appointed by the Agency from the list and in accordance with the guidelines supplied by the Auditor-General of the Federation.

18. The Agency shall prepare and submit to the Federal Executive Council, through the Minister, not later than 30th June in each year, a report on the activities of the Agency during the immediate preceding year, and shall include in such report, a copy of the audited accounts of the Agency for that year and the auditors report.

19. The Agency may, subject to the provisions of this Act and the conditions of any trust created in respect of any property, invest all or any of its funds in any security prescribed by the Trustee Investment Act or in such other securities as may, from time to time, be approved by the Minister.

20. (1) The Agency may make regulations getting specifications and standards to protect and enhance the quality of Nigeria’s air resources, so as to promote the public health or welfare
and the natural development and productive capacity of the nations' human, animal, marine or plant life including, in particular:

(a) minimum essential air quality standards for human, animal, marine or plant health;
(b) the control of concentration of substances in the air which separately or in combination are likely to result in damage or deterioration of property or of human, animal, marine or plant, health;
(c) the most appropriate means to prevent and combat various atmospheric pollution;
(d) control of atmospheric pollution originating from energy sources, including that produced by aircraft and other self-propelled vehicles, industries, factories and power generating situations or facilities;
(e) standards applicable to emission from any new mobile or stationary source which in the Agency's judgment causes or contributes to air pollution which may reasonably be anticipated to endanger public health or welfare; and
(f) the use of appropriate means to reduce emission to permissible levels.

(2) The Agency may establish monitoring stations or networks to locate sources of atmospheric pollution and determine their actual or potential danger.

(3) A person who violates the regulations made pursuant to subsection (1) of this section commits an offence and shall on conviction, be liable to a fine not exceeding N200,000 or to imprisonment for a term not exceeding one year or to both such fine and imprisonment and an additional fine of N20,000 for every day the offence subsists.

(4) Where an offence under subsection (1) of this section is committed by a body corporate, it shall on conviction be liable to a fine not exceeding N2,000,000 and in additional fine of N50,000 for every day the offence subsists.

21. (1) The Agency shall in collaboration with other relevant agencies undertake to study data and recognize developments in force in other countries, regarding the cumulative effects of all substances, practices, processes and activities which may affect the stratosphere.

(2) The Agency shall, in collaboration with other relevant agencies, embark on programmes for the control of any substance, practice, process or activity which may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, when such effects may reasonably be anticipated to endanger public health or welfare.

(3) Where an offence under subsection (2) of this section is committed by a body corporate, it shall on conviction, be liable to a fine not exceeding N2,000,000 and an additional fine of N50,000 for every day the offence subsists.

22. (1) The Agency shall, on the commencement of this Act, in consultation with appropriate authorities:

(a) identify major noise sources, noise criteria and noise control technology; and
(b) make regulations on noise, emission, control, abatement, as may be necessary to preserve and maintain public health and welfare.

(2) The Agency shall enforce compliance with existing regulations and recommend programmes to control noise originating from industrial, commercial, domestic, sports, recreational, transportation or other similar activities.

(3) A person who violates the Regulations made pursuant to sub-section (1) of this section commits an offence and shall on conviction be liable to a fine not exceeding N50,000 or to imprisonment for a term not exceeding one year or to both such fine and imprisonment and an additional fine of N50,000 for every day the offence subsists.

(4) Where an offence under subsection (3) of this section is committed by a body corporate, it shall on conviction be liable to a fine not exceeding N500,000 and an additional fine of N10,000 for every day the offence subsists.

23. (1) The Agency shall in collaboration with other relevant agencies make quality regulations for the purpose of protecting public health or welfare and enhancing the quality of water to serve the purpose of this Act.

(2) In drawing up proposals for such regulations and standards, the Agency shall take into consideration the use and value of public water supplies, propagation of Maine and wildlife, recreational purposes, agricultural, industrial and other legitimate use.
(3) A person who violates the provisions of the regulations made pursuant to subsection (1) of this section, commits an offence and shall on conviction, be liable to a fine not exceeding ₦50,000 or to imprisonment for a term not exceeding one year or to both such fine and imprisonment and an additional fine of ₦5,000 for every day the offence subsists.

(4) Where an offence under subsection (1) of this section is committed by a body corporate, it shall on conviction, be liable to a fine not exceeding ₦500,000 and an additional fine of ₦10,000 for every day the offence subsists.

24. (1) The Agency shall, on the commencement of this Act, establish effluent limitations for new point sources which shall require application of the best control technology currently available and implementation of the best management practices.

(2) The Agency shall, on the commencement of the Act, review effluent limitations for existing point sources which shall require the application of the best management practices, under circumstances as determined by the Agency, and shall include, schedules of compliance for installation and operation of the best practicable control technology as determined by the Agency.

(3) Notwithstanding the existing regulations in force, other than in the oil and gas sector, the Agency may make regulations on effluent limitations, on existing and new point sources, for the protection of human, animal, marine and plant life.

(4) A person who violates the provisions of the regulations made pursuant to subsection (3) of this section, commits an offence and shall on conviction, be liable to a fine not exceeding ₦200,000 or to imprisonment for a term not exceeding 2 years or to both such fine and imprisonment and an additional fine of ₦5,000 for every day the offence subsists.

(5) Where an offence under subsection (3) of this section is committed by a body corporate, it shall on conviction, be liable to a fine, not exceeding ₦1,000,000 and an additional fine of ₦50,000 for every day the offence subsists.

25. (1) The Agency may make regulations for the purpose of protecting public health and promotion of sound environmental sanitation.

(2) A person who violates the provisions of the regulations made pursuant to subsection (1) of this section shall be guilty of an offence and punished under the penalties imposed in the regulations made pursuant thereto.

26. (1) The Agency may make regulations, guidelines and standards for the protection and enhancement of the quality of land resources, natural watershed, coastal zone, dams and reservoirs including prevention of flood and erosion, to serve the purpose of this Act.

(2) In drawing proposals for such regulations, guidelines or standards, the Agency shall take into consideration the Zoning Acts, Municipal Development Guidelines and Building Codes to prevent sitting essential facilities on flood plain.

(3) A person who violates the provisions of the regulations made pursuant to subsection (1) of this section, commits an offence and shall on conviction, be liable to a fine not exceeding ₦200,000 or to imprisonment for a term not exceeding one year or to both such fine and imprisonment and an additional fine of ₦10,000 for every day the offence subsists.

(4) Where an offence under subsection (1) of this section is committed by a body corporate, it shall on conviction, be liable to a fine not exceeding ₦1,000,000 and an additional fine of ₦50,000 for every day the offence subsists.

27. (1) The discharge in such harmful quantities of any hazardous substance into the air or upon the land and the waters of Nigeria or at the adjoining shorelines is prohibited, except where such discharge is permitted or authorised under any law in force in Nigeria.

(2) A person who violates the provisions of subsection (1) of this Section, commits an offence and is liable on conviction, to a fine, not exceeding ₦1,000,000 or to imprisonment for a term not exceeding 5 years.

(3) Where an offence under subsection (1) of this section is committed by a body corporate, it shall on conviction, be liable to a fine, not exceeding ₦1,000,000 and an additional fine of ₦50,000 for every day the offence subsists.
(4) Where an offence under subsection (1) of this section is committed by a body corporate, every person who at the time the offence was committed was in charge of the body corporate shall be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly provided that nothing contained in this subsection shall render any person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(5) Notwithstanding the provisions of this section or any other sections of this Act, the provisions of the Harmful Waste (Special Criminal Provisions, etc) Act shall apply in respect of any hazardous substance constituting harmful waste as defined in section 37 of this Act.

28. The Minister for the purpose of implementing the provisions of this Act, shall by regulations prescribe any specific removal method, financial responsibility level for owners or operators of vessels, or onshore or offshore facilities notice and reporting requirements.

29. The Agency shall co-operate with other Government agencies for the with removal of any pollutant excluding oil and gas related ones discharged into the Nigerian environment and shall enforce the application of best clean-up technology currently available and implementation of best management practices as appropriate.

PART VII — MISCELLANEOUS PROVISIONS

30. (1) An officer of the Agency may, in the course of his duty, at any reasonable time and on production of his certificate of designation if so required:
(a) enter and search with a warrant issued by a court, any premises including land, vehicle, tent, vessel, floating craft except Maritime Tankers, Barges or Floating Production, Storage, Offload (FPSO) and oil and gas facilities or any inland water and other structure, at all times, for the purpose of conducting, inspection, searching and taking samples for analysis which he reasonably believes, carries out activities or stores goods which contravene environmental standards or legislation;
(b) examine any article found pursuant to paragraph (a) of this subsection, which appears to him to be an article to which this Act or the regulations made under apply or anything which he reasonably believes is capable of being used to the detriment of the environment;
(c) take a sample or specimen of any article to which this Act or the regulations apply or which he has power to examine under paragraph (b) of this subsection;
(d) open and examine, pursuant to paragraph (a) of this subsection, any container or package which he reasonably believes may contain anything to which this Act or its regulations apply or which may help in his investigations;
(e) examine any book, document or other record found pursuant to paragraph (a) of this subsection, which he reasonably believes may contain any information relevant to the enforcement of this Act or the regulations and make copies thereof or extracts there from;
(f) seize and detain for such time as may be necessary for the purpose of this Act, any articles by means of or in relation to which he reasonably believes any provision of this Act or the regulations has been contravened; and
(g) obtain an order of a court to suspend activities, seal and close down premises including land, vehicle, tent, vessel, floating craft or any inland water and other structure whatsoever.

(2) A written receipt shall be given for any article or thing seized under subsection (1) of this section and the reasons for such seizure shall be stated on such receipt.

(3) An article seized under this Act shall be kept or stored in such a place as the officer of the Agency may direct and shall be returned to the owner or the person from whom it was seized if the article upon analysis or examination is found to conform with the requirements of this Act or regulations made under it.

(4) An article other than in the oil and gas sector, seized by an officer of the Agency in pursuance of this Act or the regulations made under it, may be submitted to an analyst for analysis or examination and the analyst upon making such analysis or examination shall, issue a certificate or report in the prescribed form, setting forth the result of such analysis or examination and time officer of the Agency shall, on demand, deliver a copy of such certificate or report to the owner of the article if the article is to be the subject of a proceeding under this Act or regulations thereunder.

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(5) In this section, the expression “article” to which this Act or regulations made under it apply are:
(a) liquid, soil, vegetation;
(b) biological and chemical samples;
(c) particulate filters, air quality gauges; and
(d) such other articles or samples as may be determined by the Agency.

31. A person who obstructs an officer of the Agency in the performance of his duties under section 3 of this Act commits an offence and is liable on conviction to a fine of not less than ₦200,000 for an individual or to imprisonment for a term not exceeding one year or to both such fine and imprisonment, and an additional fine of ₦20,000 for each day the offence subsists and in the case of a body corporate, it shall be liable for a fine of ₦2,000,000 on conviction and an additional fine of ₦200,000 for each day the offence subsist.

32. (1) A suit shall not be commenced against the Agency before the expiration of a period of one month, after written notice of intention to commence the suit shall have been served on the Agency by the intending plaintiff or his agent and the notice shall clearly state the:
(a) cause of action;
(b) particulars of the claim;
(c) name and place of abode of the intending plaintiff; and
(d) relief which he claims.

(2) The notice referred to in subsection (1) of this section and any summons, notice or other document required or authorized to be served on the Agency under the provisions of this Act or any other enactment or law may be served by—
(a) delivering the same to the office of the Director-General or
(b) sending it by registered post addressed to the Director-General at the Head Office of the Agency.

(3) Subject to the provisions of section 174 of the constitution of the Federal Republic of Nigeria 1999, (which relates to the power of the Attorney-General of the Federation to institute, continue or discontinue criminal proceedings against any person in a court of law), any officer of the Agency may, with the consent of the Attorney-General of the Federation, conduct criminal proceedings in respect of offence under this Act or regulations made under this Act.

(4) In a judicial proceeding for an offence under this Act or any regulation made under it, the provisions of the Criminal Procedure Act or depending on the venue, the Criminal Procedure Code shall, with such modification as the circumstance may require, apply in respect of such matter to the same extent as they apply to the trial offences generally.

33. The Minister may give directives of a general or Special nature to the Agency relating to its functions under this Act, and the Agency shall comply and give effect to the directives.

34. The Minister shall make regulations:
(a) to prescribe the methodologies for private sector payments into the fund of the Agency;
(b) to prescribe the fees to be paid for services rendered by the Agency;
(c) generally for the purposes of carrying out or giving full effect to the functions of the Agency under this Act.

35. Every other requirement, certificate, notice, direction, decision, authorization, consent, application, request, agreement or thing made, issued, given or done under any enactment repealed by this Act shall, if in force at the commencement of this Act, continue to be in force and have effect as if made, issued, given or done under the corresponding provisions of this Act.

36. The Federal Environmental Protection Agency Act is repealed.

37. In this Act—
“Agency” means the National Environmental Standards and Regulations Enforcement Agency established under section 1 of this Act;
“Appropriate authorities” means any government agency which has jurisdiction over the land or water affected by the pollution or any government agency which ordinarily has jurisdiction...
or any government over the operation which led to the pollution;
“Authorised authorities or officer” means any employee of the Agency, any Police officer not below the rank of Inspector of Police or any custom officer;
“Chairman” means the Chairman of the Agency appointed under Section 3 (1) (a) of this Act;
“Court” means the Federal or State High Court;
“Council” means the Council of the Agency established under section 3 of this Act;
“Director-General” means the Director-General of the National Environmental Standards and Regulation Enforcement Agency;
“Disposal” includes both land based disposal and dumping in waters and air space of Nigeria;
“Effluent limitation” means any restriction established by the Agency of quantities, rates and concentration of chemical, physical, biological or other constituents which are discharged from point sources into the waters in Nigeria;
“Environment” includes water, air, land and all plants and human beings or animals living therein and the inter-relationships which exist among these or any of them;
“Hazardous substance” means any chemical, physical or biological and radioactive material that poses a threat to human health and the environment or any such substance regulated under international conventions to which Nigeria is a party or signatory e.g. Montreal Protocol, Rotterdam Convention, Stockholm Convention etc. and includes any substance designated as such by the President of the Federal Republic of Nigeria by order published in the Federal Gazette;
“He” means male or female gender;
“Member” means a member of the Council and includes the Chairman;
“Minister” means the Minister charged with the responsibility of the environment;
“New source” means any source, the construction of which is commenced after the publication of any regulations prescribing a standard to such source;
“Officer” means qualified persons employed to act in that capacity by the Agency;
“Offshore facility” means any facility (including but not limited to motor vehicles and rolling stock) of any kind located over, in, or under any land within Nigeria other than submerged land;
“Owner” or “Operator” means, in the case-
(a) vessel, any person owning, operating or chartering by demise such vessel;
(b) an onshore facility or an offshore facility, any person owning or operating such onshore facility or offshore facility; and
(c) any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;
“point source” means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduct, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft from which pollutants are or may be discharged;
“President” means the President of the Federal Republic of Nigeria;
“Pollution” means man-made or man-aided alteration of chemical, physical, or biological quality of the environment beyond acceptable limits and “pollutants” shall be construed accordingly;
“Removal” means removal of hazardous substances from the environment of Nigeria or the taking of such action as may be necessary to minimize or mitigate damage to the public health or welfare, ecology and natural resources of Nigeria;
“Stratosphere” means the part of the atmosphere above the troposphere;
“Water of Nigeria” means all water resources in any form including atmospheric, surface and sub-surface, and under ground water resources where the water resources are interstate, or in the Federal Capital Territory, Territorial Waters, Exclusive Economic Zone or in any other area under the jurisdiction of the Federal Government of Nigeria.

38. This Act may be cited as the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, 2007.
SCHEDULE

Proceedings of the Council

1. (1) Subject to the provisions of this Act and section 27 of the Interpretation Act, the Council may make standing orders regulating its proceeding or those of any of its committees.

   (2) The quorum of the Council shall be the Chairman or the person presiding at the meeting and 5 other members of the Council including the Director-General, and the quorum of any committee of the Council shall be as determined by the Council.

2. (1) The Council shall meet whenever it is summoned by the Chairman and if the Chairman is required to do so by notice given to him by not less than 8 other members, he shall summon a meeting of the Council to be held within 14 days from the date on which the notice is given.

   (2) At any meeting of the council, the chairman shall preside but if he is absent, the members present at the meeting shall appoint one of them to preside at the meeting.

   (3) Where the Council desires to obtain the advice of any person on a particular matter, the Council may co-opt him to the Council for such period as it deems fit, but a person who is in attendance by virtue of this sub-paragraph shall not be entitled to vote at my meeting of the Council and shall not count towards a quorum.

3. (1) The Council may establish one or more committee to carry out, on behalf of the Council, such functions as the Council may determine.

   (2) A committee established under this paragraph shall consist of such number of persons as may be determined by the Council and a person shall hold office on the committee in accordance with the terms of his appointment.

   (3) A decision of a committee of the Council shall be of no effect until it is ratified by the Council.

4. (1) The fixing of the seal of the Agency shall be authenticated by the signature of the Chairman, the Director-General or any person generally or specifically authorized by the Council to act for that purpose.

   (2) A contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Agency by the Director-General or any person generally or specifically authorized by the Council to act for that purpose.

   (3) A document purporting to be a document duly executed under the seal of the Agency shall be received in evidence and shall, unless and until the contrary is proved, be presumed to be so executed.

   (4) The validity of any proceedings of the Council or of a committee shall not be adversely affected by—

   (a) a vacancy in the membership of the council or committee;

   (b) a defect in the appointment of a member of the Council or committee; or

   (c) reason that a person not entitled to do so took part in proceedings of the Council or committees.

I Certify, in accordance with Section 2(1) of the Acts Authentication Act, Cap. A2, Laws of the Federation of Nigeria 2004, that this is a true copy of the Bill passed by both Houses of the National Assembly.

NASIRU IBRAHIM ARAB,
Clerk of the National Assembly

EXPLANATORY MEMORANDUM

This Act establishes the National Environmental Standards and Regulations Enforcement Agency for the effective enforcement of standards, Regulations and all national and international agreements, treaties, conventions and protocols on environment to which Nigeria is a signatory.
ARRANGEMENT OF SECTIONS

SECTION

3. Functions of the Nigeria Extractive Industries Transparency Initiative.
5. Establishment of the National Stakeholders Working Group.
6. Composition of the National Stakeholders Working Group.
8. Payment of allowances to the National Stakeholders Working Group.
11. Special Committees.
12. Appointment of Executive Secretary, consultants and other Staff of the National Stakeholders Working Group.
15. Bank account.
16. Offences and penalties.
17. Regulations.
18. Service of notices and process.
19. Interpretation.
20. Citation.

NIGERIA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (NEITI) ACT, 2007

[ACT 2007 No. 36]

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE NIGERIA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (NEITI) AND; FOR RELATED MATTERS.

Commencement    [28th Day of May, 2007]

ENACTED by the National Assembly of the Federal Republic of Nigeria—

1. (1) There is established a body to be known as the Nigeria Extractive Industries Transparency Initiative, (in this Act referred to as "the NEITI").
   
   (2) The NEITI:
   
   (a) shall be an autonomous self-accounting body, which shall report to the President and the National Assembly;
   
   (b) shall be a body corporate with perpetual succession with a common seal; and
   
   (c) may:
   
   (i) sue and be sued in its corporate name, and
   
   (ii) acquire, hold and dispose of movable and immovable properties in the discharge of its functions under this Act.

2. The primary objectives of the NEITI are:

   Establishment of the Nigeria Extractive Industries Transparency Initiative.

   Objectives of NEITI.
(a) to ensure due process and transparency in the payments made by all extractive industry companies to the Federal Government and statutory recipients;
(b) to monitor and ensure accountability in the revenue receipts of the Federal Government from extractive industry companies;
(c) to eliminate all forms of corrupt practices in the determination, payments, receipts and posting of revenue accruing to the Federal Government from extractive industry companies;
(d) to ensure transparency and accountability by government in the application of resources from payments received from extractive industry companies; and
(e) to ensure conformity with the principles of Extractive Industries Transparency Initiative.

3. For the purpose of realizing its objectives under this Act, the NEITI shall perform the following functions:
(a) develop a framework for transparency and accountability in the reporting and disclosure by all extractive industry companies of revenue due to or paid to the Federal Government;
(b) evaluate without prejudice to any relevant contractual obligations and sovereign obligations the practices of all extractive industry companies and government respectively regarding acquisition of acreages, budgeting, contracting, materials procurement and production cost profile in order to ensure due process, transparency and accountability;
(c) ensure transparency and accountability in the management of the investment of the Federal Government in all extractive industry companies;
(d) obtain, as may be deemed necessary, from any extractive industry company an accurate record of the cost of production and volume of sale of oil, gas or other minerals extracted by the company at any period; provided that such information shall not be used in any manner prejudicial to the contractual obligation or proprietary interests of the extractive industry company;
(e) request from any company in the extractive industry, or from any relevant organ of the Federal, State or Local Government, an accurate account of money paid by and received from the company at any period, as revenue accruing to the Federal Government from such company for that period; provided that such information shall not be used in a manner prejudicial to contractual obligations or proprietary interests of the extractive industry company or sovereign obligations of Government;
(f) monitor and ensure that all payments due to the Federal Government from all extractive industry companies, including taxes, royalties, dividends, bonuses, penalties, levies and such like, are duly made;
(g) identify lapses and undertake measures that shall enhance the capacity of any relevant organ of the Federal, State or Local Government having statutory responsibility to monitor revenue payments by all extractive industry companies to the Federal Government;
(h) disseminate by way of publication of records, report or otherwise any information concerning the revenue by the Federal Government from all extractive industry companies, as it may consider necessary;
(i) promote or undertake any other activity related to its functions and which, in its opinion, is calculated to help achieve its overall objectives as enumerated in section 2 of this Act;
(j) ensure that all fiscal allocations and statutory disbursements due from the Federal Government to statutory recipients are duly made.

4. (1) The NEITI shall in each financial year appoint independent auditors for the purpose of auditing the total revenue which accrued to the Federal Government for that year from extractive industry companies, in order to determine the accuracy of payments and receipts.
(2) The independent auditors appointed under subsection (1) of this section of shall undertake a physical, process and financial audit on such terms and conditions as may be approved by the National Stakeholders Working Group (NSWG).
(3) Upon the completion of an audit, the independent auditors shall submit the reports together with comments of the Extractive Industries Company to the NEITI, which shall cause same to be disseminated to the National Assembly and the Auditor-General of the Federation and also ensure their publication.
(4) The NEITI shall submit a bi-annual report of its activities to the President and National Assembly.
(5) An auditor or auditing firm that has audited any extractive industry company in any given year shall not be appointed in the same year for the purposes of subsection (2) of this section.
(6) An auditor or auditing firm shall not be engaged for more than two years consecutively for the purposes of subsection (2) of this section.

(7) The Auditor-General of the Federation shall not later than 3 months after the submission of the audit report to the National Assembly publish any comment made or action taken by the Government on the audit reports.

5. (1) The governing body of the NEITI shall be the National Stakeholders Working Group (in this Act referred to as “the NSWG”).

(2) The NSWG shall be responsible for the formulation of policies, programmes and strategies for the effective implementation of the objectives and the discharge of the functions of the NEITI.

(3) Without prejudice to subsection (2) of this section, the NSWG shall have powers to recommend the annual budget and work-plan of the NEITI and ensure the periodic review of programmes performance by the NEITI.

6. (1) The NSWG shall be constituted by the President and shall consist of a chairman and not more than 14 other members one of whom shall be an Executive Secretary.

(2) (a) In making appointment into the NSWG, the President shall include:

(i) representative of extractive industry companies,
(ii) representative of Civil Society,
(iii) representative of Labour Unions in the extractive industries,
(iv) experts in the extractive industry, and
(v) one member from each of the six geopolitical zones;

(b) the Chairman and other members of NSWG other than the Executive Secretary shall serve on part-time basis.

(3) The appointment of Executive Secretary shall be for 5 years and no more.

7. A person appointed as a member of the NSWG shall hold office for 4 years and no more.

8. The members of the NSWG as well as any person appointed to any of its special committees under section 2 may be paid such allowances out of the funds of the NEITI as the National Revenue Mobilization and Fiscal Commission may approve.

9. (1) The NSWG shall ordinarily meet quarterly for the dispatch of business at such times and places as it may determine, but not less than four times in a year.

(2) At every meeting of the NSWG, the Chairman shall preside and in his absence, a member of the NSWG appointed by the members from among themselves shall preside.

(3) Questions proposed at a meeting of NSWG shall be determined by a simple majority of members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(4) The NSWG may at any time co-opt any person to act an adviser at any of its meetings but no person so co-opted shall be entitled to vote at any meeting.

(5) The Validity of the proceedings of the NSWG shall not be affected by the absence of any member, vacancy among its membership or by any defect in the appointment of any of the members.

10. The quorum of the NSWG at any meeting shall be 8 members.

11. NSWG may constitute such special committees as it considers fit to deal with different aspects of its responsibilities.

12. (1) The NSWG may create departments and engage the services of such staff and consultants as it may consider necessary for the NEITI.

(2) The NEITI shall have an Executive Secretary who shall:

(a) be appointed by the President upon the recommendation of the NSWG provided he is a graduate with relevant qualifications and at least 10 years cognate experience;
(b) be responsible for the day-to-day administration of the NEITI; and
(c) serve as Secretary to NSWG.
(3) The staff and consultants of the NEITI may be engaged on such terms and conditions as the NSWG may determine.

(4) The NSWG shall fix the remunerations, allowances and benefits of the staff and consultants of the NEITI.

(5) (a) The NSWG shall recommend to the President for appointment, qualified validators in line with NEITI guidelines as contained in second schedule to this Act; and

(b) NSWG shall fix the remunerations, allowances and benefits for the validators.

Second Schedule.

Financial provisions.

13. (1) The funds of the NEITI shall consist of:

(a) such sums as may be provided by the Federal Government and appropriated by the National Assembly based on the budget submitted by the NSWG and which shall be released as and when due; and

(b) such sums as may be paid to the NEITI by way of grants, donations and gifts provided the sources of such grants, donations and gifts are properly disclosed and not in conflict with the provisions of this Act.

(2) The NEITI shall apply the proceeds of the funds established under section 13 (1) of this Act to the:

(a) cost of administration;

(b) payment of salaries, allowances and benefits to members of the NSWG or any of its committees;

(c) payment of salaries, remunerations, allowances, pensions benefits to officers and employees for NEITI;

(d) payment of all purchases;

(e) payment for all contracts, including mobilization, fluctuation, variations, legal fees and cost of contract-administration; and

(f) carrying out of other activities that would promote its objectives which are connected to all or any of the functions of NEITI under this Act; and

(g) payment for validators.

(3) The Governing body of NEITI, the NSWG, shall not later than 30th September in each year, submit to the President and the National Assembly an estimate of the expenditure and income of NEITI during the succeeding year and the NEITI shall cause to be kept proper accounts in respect of each year and proper records in relation thereto.

Audited account.

14. (1) The NEITI shall cause the account of total revenue which accrued to the Federal Government from all extractive industry companies, its receipts, payments, assets and liabilities to be audited not later than 6 months after the end of each year by independent auditors appointed on such terms and conditions as the NSWG may approve and on the confirmation of the audit, the independent auditor shall submit the report with comments of the audited entity to the NEITI which shall cause same to be published for the information of the public; provided that the contents of such report shall not be published in a manner prejudicial to the contractual obligations or proprietary interests of the audited entity.

(2) The NEITI shall have power to borrow money from banks with the approval of NSWG.

(3) The NEITI shall prepare and submit to the President and the National Assembly not later than 30th September in each year, a report of its activities during the immediate preceding year, and shall include in such report the audited accounts of the NEITI for that year and the auditor's report thereon.

Bank account.

15. (1) The NEITI shall maintain bank accounts, the signatories of account, which shall be determined by the NSWG in accordance with the regulation made pursuant hereto.

(2) The accounts may be opened in such banks as the NSWG may determine.

Offences and penalties.

16. (1) An extractive industry company which:

(a) gives false information or report to the Federal Government or its agency regarding its volume or production, sales and income; or

(b) renders, false statement of account or fails to render a statement of account required under this Act to the Federal Government or its agencies, resulting in the underpayment or non-payment of revenue accruable to the Federal Government, or
statutory recipients commits an offence and is liable on conviction to a fine not less than ₦30,000,000.

(2) Where the Extractive industry has been convicted of an offence under subsection (1) of this section, the court shall, in addition to the penalty prescribed there under, order the company to pay the actual amount of revenue due to the Federal Government.

(3) An extractive industry company which delays or refuses to give information or report under this Act, or willfully or negligently fails to perform its obligations under this Act, commits an offence and is liable on conviction to a fine not less than ₦30,000,000.

(4) Without prejudice to subsections (1), (2) and (3) of this section, the President may on the recommendation of the NSWG suspend or revoke the operational licence of any extractive industry company which fails to perform its obligations under this Act.

(5) If any extractive industry company commits an offence against this Act, every Director or other persons concerned in the management of the company commits the offence and is liable on conviction to not less than 2 years imprisonment or a fine not less than ₦5,000,000 unless that person proves that:
(a) the offence was committed without his consent or connivance; and
(b) the person exercised all such diligence to prevent the commission of the offence as ought to have been exercised by that person, having regard to the nature of his functions in that company and to all the circumstances.

(6) A government official who renders false statement of account or fails to render a statement of account required under this Act to the Federal Government or its agencies, resulting in the underpayment or non-payment of revenue accruable to the Federal Government or statutory recipients, commits an offence and is liable on conviction to not less than 2 years imprisonment or a fine not less than ₦5,000,000, unless that person proves that:
(a) the offence was committed without his consent or connivance; and
(b) the person exercised all such diligence to prevent the commission of the offence as ought to have been exercised by that person, having regard to the nature of his functions in that company and to all the circumstances.

17. The NSWG may make regulations as it may consider expedient for the purpose of giving effect to the provisions of this Act and for regulating any matter that falls within the scope of the functions of the NEITI.

18. Subject to the provisions of this Act, no suit shall be commenced against NEITI before the expiration of 30 days after written notice of an intention to commence the suit shall have been served upon NEITI as a defendant or its agent, and the notice shall clearly and explicitly state:
(a) the cause of action;
(b) the particulars of the claim;
(c) the names and the legal practitioners representing the plaintiff and their addresses; and
(d) the relief sought.

19. (1) The Executive Secretary of the NEITI, his officers, employes or agents shall not personally be subject to any action, claim or demand by or liable to any person in respect anything done or omitted to be done in the exercise of any function or power conferred by this Act upon the NEITI or member of the NSWG.
(2) A member of the NSWG, the Executive Secretary or any officer of the NEITI shall be indemnified out of the funds of the NEITI against any liability incurred by him in defending any proceeding, whether civil or criminal, if the proceeding is brought against him in his capacity as a member of NSWG, Executive Secretary, officer or any employee of the NEITI.
(3) Subject to the provisions of this Act, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against any officer, or employee of NEITI or member of the NSWG.

20. A notice, summons, other court processes, other documents required or authorized to be served upon the NEITI under the provisions of this Act, any other law or enactment shall and be served by delivering it to the Executive Secretary or by sending it by registered post addressed to the Executive Secretary at the principal office of the NEITI.

21. In this Act:
“Extractive Industry Company” means any company in Nigeria that is engaged in the business of prospecting, mining, extracting, processing and distributing minerals and gas, including oil, gold, coal, tin, bitumen, diamonds, precious stones and such like; and includes any agency or body responsible for the payment of extractive industry proceeds to the Federal Government or its Statutory Recipient;

“Federal Government” means The Federal government of Nigeria;

“Government” means the three tiers of the government of Nigeria, including Federal, State and Local Government, and their respective Ministries, agencies and departments;

“President” means the President and Commander-in Chief of the Armed Forces of Federal Republic of Nigeria;

“Statutory Recipient” means any entity to whom by law, extractive industry companies or Government are obliged to make payments;

“Extractive Industry Expert” means a person who has spent a minimum of ten (10) years in a management position in the extractive industry;

“NSWG” means National Stakeholders Working Group.

22. This Act may be cited as the Nigeria Extractive Industries Transparency Initiative Act, 2007.

SCHEDULE

Section 2 (7)

SUPPLEMENTARY PROVISIONS RELATING TO THE NIGERIA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE, ETC.

Proceedings of the Governing Body

1. (1) Subject to section 27 of the Interpretation Act, Cap. 192 LFN, 1990 the NSWG may make standing order to regulate its proceedings for those of any of its Committee.

2. (1) The NSWG shall meet whenever it is summoned by the Chairman and if the Chairman is required to do so by notice given to him by not less than 4 other members, he shall summon a meeting of the NSWG to be held within 14 days from the date on which the notice was given.

2. (2) At any meeting of the NSWG, the Chairman shall preside but if he is absent, the members present at the meeting shall appoint one of them to preside at the meeting.

2. (3) When the NSWG desire to obtain the advice of any person on a particular matter, it may co-opt him for such period as it deems fit, but a person who is a member by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the NSWG and shall not count towards a quorum.

2. (4) The NSWG shall ordinarily meet at such times and places as it may determine, and for not less than four times in a year.

2. (5) Questions proposed at a meeting of the NSWG shall be determined by a simple majority of members present and voting, and in the event of an equality of votes, the Chairman or any other person presiding shall have a second or casting vote.

Committees

3. (1) The NSWG may appoint one or more Committee to carry out on its behalf such of the functions of NEITI as it may determine.

3. (2) A Committee appointed under this paragraph shall consist of such number of person as may be determined by the NSWG and a person shall hold office on the Committee in accordance with the terms of his appointment.

3. (3) A decision of a Committee shall not have effect until it is confirmed by the NSWG.

Miscellaneous

4. (1) The fixing of the seal of NEITI shall be authenticated by the signatures of the Chairman and Secretary of the NSWG generally.
(2) Any contractor instrument which, if made or executed by a person not being a body corporate would not be required to be under seal; may be made or executed on behalf of NEITI by the Secretary of the NSWG generally or any other person specifically authorized by the NSVG to act for that purpose.

(3) A document purporting to be duly executed under the seal of NEITI shall be received in evidence and shall, unless the contrary is proved, be presumed to be so executed.

(4) The validity of any proceeding of the NSWG or of a Committee shall not be adversely affected by—
(a) a vacancy in the membership of the NSWG or a Committee, or
(b) a defect in the appointment of a member of the NSWG or Committee, or
(c) reason that a person not entitled to do so took part in the proceeding of the NSWG or Committee.

I certify, in accordance with section 2 (1) of the Acts Authentication Act, Cap. 4, Laws of the Federation of Nigeria 1990, that this is a true copy of the Bill passed by both Houses of the National Assembly.

NASIRU IBRAHIM ARAB,
Clerk to the National Assembly

EXPLANATORY MEMORANDUM
This Act provides for the establishment of the Nigeria Extractive Industries Transparency Initiative (NEITI) charged with the responsibility, among other things, for the development of a framework for transparency and accountability in the reporting and disclosure by all extractive industry companies of revenue due to or paid to the Federal Government.

SCHEDULE TO NATIONAL EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (NEITI) BILL, 2007

<table>
<thead>
<tr>
<th>Short title of the Bill</th>
<th>Long title of the Bill</th>
<th>Summary of the contents of the Bill</th>
<th>Date Passed by the Senate</th>
<th>Date Passed by the House of Representatives</th>
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<tr>
<td>Nigeria Extractive Industries Transparency Initiative (NEITI) Bill, 2007.</td>
<td>An Act to provide for the establishment of the Nigeria Extractive Industries Transparency Initiative (NEITI); and for related matters.</td>
<td>This Bill provides for the establishment of the Nigeria Extractive Industries Transparency Initiative (NEITI) charged with the responsibility, among other things, for the development of a framework for transparency and accountability in the reporting and disclosure by all extractives industry companies of revenue due to or paid to the Federal Government.</td>
<td>25th May, 2007.</td>
<td>17th May, 2007.</td>
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I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. 4, Laws of the Federation of Nigeria, 1990.

I ASSENT.

NASIRU IBRAHIM ARAB,
Clerk to the National Assembly

CHIEF OLUSEGUN OBASANJO, GCFR
President of the Federal Republic of Nigeria
28th Day of May, 2007.
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SCHEDULE

_________________________________

NIGERIAN OIL AND GAS INDUSTRY CONTENT DEVELOPMENT ACT
[2010 ACT No. 2]

AN ACT TO PROVIDE FOR THE DEVELOPMENT OF NIGERIAN CONTENT IN THE NIGERIAN OIL AND GAS INDUSTRY, NIGERIAN CONTENT PLAN, SUPERVISION, COORDINATION, MONITORING AND IMPLEMENTATION OF NIGERIAN CONTENT; AND FOR RELATED MATTERS.

Commencement [22nd Day of April, 2010]

ENACTED by the National Assembly of the Federal Republic of Nigeria—

PART I — NIGERIAN CONTENT DEVELOPMENT IN OIL AND GAS INDUSTRY

1. Notwithstanding anything to the contrary contained in the Petroleum Act or in any other enactment or law, the provisions of this Act shall apply to all matters pertaining to Nigerian content in respect of all operations or transactions carried out in or connected with the Nigerian oil and gas industry.

2. All regulatory authorities, operators, contractors, subcontractors, alliance partners and other entities involved in any project, operation, activity or transaction in the Nigerian oil and gas industry shall consider Nigerian content as an important element of their overall project development and management philosophy for project execution.

3. (1) Nigerian independent operators shall be given first consideration in the award of oil blocks, oil field licences, oil lifting licences and in all projects for which contract is to be awarded in the Nigerian oil and gas industry subject to the fulfillment of such conditions as may be specified by the Minister.

   (2) There shall be exclusive consideration to Nigerian indigenous service companies which demonstrate ownership of equipment, Nigerian personnel and capacity to execute such work to bid on land and swamp operating areas of the Nigerian oil and gas industry for contracts and services contained in the Schedule to this Act.

   (3) Compliance with the provisions of this Act and promotion of Nigerian content development shall be a major criterion for award of licences, permits and any other interest in bidding for Oil exploration, production, transportation and development or any other operations in Nigerian Oil and Gas industry.

4. The Nigerian Content Development and Monitoring Board (“the “Board”) established in accordance with this Act shall make procedure that will guide, monitor, coordinate and implement the provisions of this Act.

5. The Board shall implement the provisions of this Act with a view to ensuring a measurable and continuous growth of Nigerian content in all oil and gas arrangements, projects, operations,
activities or transactions in the Nigerian oil and gas industry.

6. Upon the commencement of this Act, all subsequent oil and gas arrangements, agreements, contracts or memoranda of understanding relating to any operation or transaction in the Nigerian oil and gas industry shall be in conformity with the provisions of this Act.

7. In the bidding for any licence, permit or interest and before carrying out any project in the Nigerian oil and gas industry, an operator shall submit a Nigerian Content Plan ("the Plan") to the Board demonstrating compliance with the Nigerian content requirements of this Act.

8. The Board shall review and assess the plan and, if satisfied that the plan complies with the provisions of this Act, issue a Certificate of Authorization ("the Certificate") to the operator for that project.

9. For the purposes of reviewing or assessing the plan, the Board may conduct a public review in relation to the exercise of any of its functions under this Act provided that any such review or assessment is completed and certificate issued or denied within 30 days from the date of commencement of such review or assessment.

10. (1) A plan shall contain provisions intended to ensure that-
   (a) first consideration shall be given to services provided from within Nigeria and to goods manufactured in Nigeria; and
   (b) Nigerians shall be given first consideration for training and employment in the work programme for which the plan was submitted.

   (2) Any collective agreement entered into by the operator, project promoter or other body submitting the plan with any association of employees respecting terms and conditions of employment in the project shall contain provisions consistent with this section.

11. (1) As from the commencement of this Act, the minimum Nigerian content in any project to be executed in the Nigerian oil and gas industry shall be consistent with the level set in Schedule of this Act.

   (2) Where a project description is not specified in the Schedule to this Act, the Board shall set the minimum content level for that project or project item pending the inclusion of the minimum content level for that project or project item through an amendment of the Schedule to this Act by the National Assembly.

   (3) All operators, alliance partners and contractors shall comply with the minimum Nigerian content for particular project item, service or product specification set out in the schedule to this Act.

   (4) Notwithstanding the provisions of subsection (1) of this section, where there is inadequate capacity to any of the targets in the Schedule to this Act, the Minister may authorize the continued importation of the relevant items and such approval by the Minister shall not exceed 3 years from the commencement of this Act.

12. Subject to section 7 of this Act, the Nigerian Content Plan submitted to the Board by an operator shall contain a detailed plan, satisfactory to the Board, setting out how the operator and their contractors will give first consideration to Nigerian goods and services, including specific examples showing how first consideration is considered and assessed by the operator in its evaluation of bids for goods and services required by the project.

13. The Nigerian content plan submitted to the Board by any operator or alliance partner shall contain detailed plan on how the operator or its alliance partner intend to ensure the use of locally manufactured goods where such goods meet the specifications of the industry.

14. All operators and project promoters shall consider Nigerian content when evaluating any bid where the bids are within 1% of each other at commercial stage and the bid containing the highest level of Nigerian content shall be selected provided the Nigerian content in the selected bid is at least 5% higher than its closest competitor.

15. All operators and alliance partners shall maintain a bidding process for acquiring goods and services which shall give full and fair opportunity to Nigerian indigenous contractors and companies.

16. The award of contract shall not be solely based on the principle of the lowest bidder where a Nigerian indigenous company has capacity to execute such job and the company shall not
be disqualified exclusively on the basis that it is not the lowest financial bidder, provided the value does not exceed the lowest bid price by 10 percent.

17. (1) For all proposed projects, contracts, subcontracts and purchase orders estimated by operator to be in excess of $1,000,000 (USD), the operator shall provide to the Board for approval, advertisements, pre-qualification criteria, technical bid documents, technical evaluation criteria and the proposed bidders lists.

(2) The operator or project promoter shall submit sufficient information with the notifications to enable the Board assess the subject matter and to be satisfied that the requirements for Nigerian content have been complied with by the operator or project promoter.

18. (1) The operators shall submit to the Board, 30 days prior to the first day of each quarter, a list of all contracts, subcontracts and purchase orders exceeding $1,000,000 (USD) which will be bid or executed in the upcoming quarter.

(2) For each contract, subcontract and purchase order, the list shall provide —
(a) a description of the service or item to be contracted or purchased (material and equipment specifications shall be provided upon request);
(b) estimated value of contract, subcontract or purchase order;
(c) the Invitation To Tender (ITT) issuance date, ITT closure date and award date; and
(d) any other information requested by the Board for the purposes of implementing the provisions of this Act.

19. Subject to section 17 of this Act, the Board shall advise the operator, by the first day of each quarter, which contracts and sub-contracts have been designated by the Board for review and shall advise the operator of the outcome of such contract review.

20. Prior to issuing of adverts or pre-qualification notification to prospective bidders, the operator or the project promoter shall submit to the Board the following for review and approval—
(a) a description of the scope of work;
(b) a copy of the pre-qualification notification, if these documents differ from the standard pre-qualification notification previously reviewed by the Board;
(c) a list of companies, indicating locations of head offices, to whom questionnaires shall be issued; and
(d) anticipated dates for closure of prequalification and commencement of technical evaluation, issuance of an Invitation To Tender (ITT).

21. For the purposes of compiling a bidding list for any project, the operator, project promoter or alliance partner shall submit to the Board, prior to issuing an Invitation To Tender (ITT)—
(a) a list of bidders;
(b) a copy of the Invitation To Tender (ITT) (the Board shall advise the operator of its requirements in this regard on a case by case basis);
(c) a description of corporate ownership (main shareholders by percentage) of bidders;
(d) location of any Nigerian based office, plant or facility;
(e) anticipated dates for closure of bids and award of contract or purchase order; and
(f) any other information requested by the Board.

22. Prior to the award of contract, subcontract or purchase order to the selected bidder, the operator shall submit to the Board—
(a) the name of the selected contractor or vendor;
(b) a list of designated sub-contractors or sub-vendors;
(c) where applicable, a list of proposed sub-suppliers;
(d) for construction or service contracts; the estimated Nigerian employment (in person-hours);
(e) contract or purchase order commencement and completion dates;
(f) award Notification Form signed by an appropriate official of the operator; and
(g) statement of award rationale (evaluation of bids) showing—
(i) percentage difference in price between selected bidder and each bid,
(ii) a primary location of work associated with each bidder,
(iii) estimates of Nigerian content associated with the bid of each bidder calculated in accordance with the definition of Nigerian content to be provided by the Board, and
(iv) other information relevant to the evaluation of bidders including where applicable, a summary of the technical, commercial and Nigerian content aspects of the bid evaluations,
23. Upon assessment of the documentation received in compliance with section 19 of this Act, the Board shall advise the operator, within 10 days, which contracts, subcontracts and purchase orders have been designated by the Board for review, and the designated contracts, subcontracts and purchase orders shall be reviewed to the satisfaction of the Board.

24. (1) The operator shall submit to the Board, within 30 days at the end of each quarter, a listing of all contracts, subcontracts and purchase orders exceeding $1,000,000 (USD) or such other limit as the Board may determine, awarded in the previous quarter.

   (2) This listing shall provide—
      (a) a list of all items and services;
      (b) value of contract or purchase order;
      (c) name of successful contractor or vendor;
      (d) a primary location of work;
      (e) estimates of Nigerian content;
      (f) commencement and completion date; and
      (g) any other information required by the Board for the purposes of implementing the provisions of this Act.

25. Where applicable, before carrying out any work or activity in Nigeria, the operator or other body submitting a plan shall establish in the Catchment Area where the project is to be located, a project office where project management and procurement decision making are to take place, to the satisfaction of the Board.

26. The operator shall locate, within the project office, personnel with decision-making authority in accordance with a list of personnel to be approved by the Board.

27. Subject to section 25 of this Act, the Board shall have powers to require any operator to maintain an office in a Community where the operator has significant operations.

28. (1) Subject to section 10 (1) (b) of this Act, Nigerians shall be given the first consideration for employment and training in any project executed by any operator or project promoter in the Nigerian oil and gas industry.

   (2) The Board shall ensure that the operator or project promoter maintains a reasonable number of personnel from areas it has significant operation.

29. The plan submitted by any operator or project promoter for any project shall contain an Employment and Training Plan (E and T Plan) which shall include—

   (a) an outline of the—
      (i) hiring and training needs of the operator or project promoter and and training operator's major contractors with a breakdown of the skills needed,
      (ii) anticipated skill shortages in the Nigerian labour force,
      (iii) project specific training requirements, and
      (iv) anticipated expenditures that will be made directly by the operator in implementing the E and T Plan as a forecasted and actual expenditure;

   (b) a time frame for employment opportunities for each phase of project development and operations, to enable members of the Nigerian workforce to prepare themselves for such opportunities;

   (c) the operator or project promoter shall report to the Board quarterly on employment and training activities for the reporting period and compare this to the E and T Plan and the report shall include—
      (i) number of new employees hired during the year,
      (ii) their place of residence at the time of hiring, and
      (iii) their employment status; and

   (d) any other information required by the Board for the purposes of implementing the provisions of this Act.

30. Where Nigerians are not employed because of their lack of training, the operator shall ensure, to the satisfaction of the Board, that every reasonable effort is made within a reasonable time to supply such training locally or elsewhere and such effort and the procedure for its execution shall be contained in the operator's E and T Plan.
31. (1) For each of its operations, the operator shall submit to the Board a succession plan for any position not held by Nigerians and the plan shall provide for Nigerians to understudy each incumbent expatriate for a maximum period of four years and at the end of the four year period the position shall become Nigerianised.

(2) All indigenous (Nigerianised) positions shall attract salaries, wages and benefits as provided for in the operators’ conditions of service for Nigerian employees.

(3) All conditions of service and staff demography for all operators shall be made available to the Board.

32. For each of its operations, an operator or project promoter may retain a maximum of five per cent of management positions as may be approved by the Board as expatriate positions to take care of investor interests.

33. (1) Upon the commencement of this Act, the operators shall make application to, and receive the approval of, the Board before making any application for expatriate quota to the Ministry of Internal Affairs or any other agency or Ministry of the Federal Government.

(2) The application shall be detailed and shall include—
   (a) job titles;
   (b) description of responsibilities;
   (c) the duration of the proposed employment in Nigeria; and
   (d) any other information required by the Board for purposes of implementing the provision of this Act.

34. Notwithstanding the provisions of the Schedule to this Act, all projects or contracts whose total budget exceeds $100 million (USD) shall contain a “Labour Clause” mandating the use of a minimum percentage of Nigerian labour in specific cadres as may be stipulated by the Board.

35. All operators and companies operating in the Nigerian oil and gas industry shall employ only Nigerians in their junior and intermediate cadre or any other corresponding grades designated by the operator or company.

36. The Minister shall make regulations with requirements and targets for the growth of research and development in the Nigerian oil and gas industry.

37. For every project for which a plan is submitted, an operator shall carry out a programme and make expenditure, to the satisfaction of the Board, for the promotion of education, attachments, training, research and development in Nigeria in relation to its work programme and activities.

38. (1) The operator shall submit to the Board and update, every six and months, the operator’s Research and Development Plan (R and D Plan).

(2) The R and D Plan shall—
   (a) outline a revolving three to five year plan for oil and gas related research and development initiatives to be undertaken in Nigeria, together with a breakdown of the expected expenditures that will be made in implementing the R and D Plan; and
   (b) provide for public calls for proposals for research and development initiatives associated with the operator’s activities.

39. The operator shall report to the Board, on quarterly basis, with respect to its R and D activities and the Board shall compare these activities to the operators R and D Plan.

40. (1) The Minister shall make regulations establishing the minimum standards, facilities, personnel and technology for training in the oil and gas industry.

(2) The regulations shall specify modalities for involving operators as partners in training and development.

41. (1) The Minister shall make regulations setting out targets to ensure—
   (a) full utilization and steady growth of indigenous companies engaged in exploration;
   (b) seismic data processing;
   (c) engineering design;
   (d) reservoir studies;
   (e) manufacturing and fabrication of equipment; and
(f) other facilities as well as the provisions of other support services for the Nigeria oil and gas industry.

(2) International or multinational companies working through their Nigerian subsidiaries shall demonstrate that a minimum of 50% of the equipment deployed for execution of work are owned by the Nigerian subsidiaries.

42. The Minister shall make regulations which shall require any operator or company or its professional employees engaged in the provision of engineering or other professional services in the Nigerian oil and gas industry to be registered with the relevant professional bodies in Nigeria.

43. Each operator shall carry out a programme in accordance with the country’s own plans and priorities, to the satisfaction of the Board, for the promotion of technology transfer to Nigeria in relation to its oil and gas activities.

44. The operator shall submit to the Board annually a plan, satisfactory to the Board, setting out a programme of planned initiatives aimed at promoting the effective transfer of technologies from the operator and alliance partners to Nigerian individuals and companies.

45. The operator shall give full and effective support to technology transfer by encouraging and facilitating the formation of joint ventures, partnering and the development of licensing agreements between Nigerian and foreign contractors and service or supplier companies agreements for all such joint ventures or alliances shall meet the requirements of Nigerian content development to the satisfaction of the Board.

46. The operator or project promoter shall submit a report to the Board annually describing its technology transfer initiatives and their results and the Minister shall make regulations setting targets on the number and type of such joint venture or alliances to be achieved for each project.

47. The Minister shall make regulations which shall require any operator to invest in or set up a facility, factory, production units or other operations within Nigeria for the purposes of carrying out any production, manufacturing or for providing a service otherwise imported into Nigeria.

48. The Minister shall consult with the relevant arms of Government on appropriate fiscal framework and tax incentives for foreign and indigenous companies which establish facilities, factories, production units or other operations in Nigeria for purposes of carrying out production, manufacturing or for providing services and goods otherwise imported into Nigeria.

49. (1) All operators, project promoters, alliance partners and Nigerian indigenous companies engaged in any form of business, operations or contract in the Nigerian oil and gas industry, shall insure all insurable risks related to its oil and gas business, operations or contracts with an insurance company, and through an insurance broker registered in Nigeria under the provisions of Insurance Act as amended.

(2) Each operator in subsection (1) of this section shall submit to the Board, a list of all insurance companies and insurance brokers through which insurance covers were obtained in the past six months, the class of insurance cover obtained and the expenditures made by the operator;

(3) The insurance programme shall include—
   (a) a comprehensive report of—
      (i) insurance covers obtained in the past six months of all insurance by expenditure,
      (ii) a forecast of insurance covers required during the next six months, and
      (iii) the projected expenditure for the covers;
   (b) a list of—
      (i) all insurance companies brokers through which insurance covers were obtained in the past six months,
      (ii) the class of insurance cover obtained, and
      (iii) the expenditures made by the operator; and
   (c) the annual insurance premium budget for the past one year in Naira and foreign currencies.

50. No insurance risk in the Nigerian oil and gas industry shall be placed offshore without the written approval of the National Insurance Commission which shall ensure that Nigerian
local capacity has been fully exhausted.

51. (1) All operators, contractors and other entities engaged in any offshore operation, business or transaction in the Nigerian oil and gas industry requiring legal services shall retain only the services of a Nigerian legal practitioner or a firm of Nigerian legal practitioners whose office is located in any part of Nigeria.

(2) All operators shall submit to the Board, every six months, its Legal Services Plan (LSP).

(3) The LSP shall include —
   (a) comprehensive report on —
      (i) legal services utilized in the past six months by expenditure,
      (ii) a forecast of legal services required during the next six months, and
      (iii) the projected expenditure for the services
   (b) a list of —
      (i) external solicitors utilized for legal services in the past six months,
      (ii) the nature of work done, and
      (iii) the expenditure made by the operator; and
   (c) the annual legal services budget for the past one year in Naira and foreign currencies.

52. (1) All operators, contractors and any other entity engaged in any operation, business or transaction in the Nigerian oil and gas industry requiring financial services shall retain only the services of Nigerian financial institutions or organizations, except where, to the satisfaction of the Board, this is impracticable.

(2) All operators shall submit to the Board every six months its Financial Services Plan (FSP).

(3) The FSP shall include —
   (a) financial services utilized in the past six months by expenditure;
   (b) a forecast of financial services required during the next six months;
   (c) the projected expenditure for the services;
   (d) A list of —
      (i) financial services utilized in past six months,
      (ii) the nature of financial services provided, and
      (iii) the expenditure for financial services;
   (e) a list of —
      (i) financial services utilized in the past six months,
      (ii) the nature of financial services provided, and
      (iii) the expenditure for financial services made by the operator or its main contractors;
   (f) all operators, contractors and sub-contractors shall maintain a bank account in Nigeria in which it shall retain a minimum of 10 per cent of its total revenue accruing from its Nigerian operations.

53. As from the commencement of this Act, all operators, project promoters, contractors and any other entity engaged in the Nigerian oil and gas industry shall carry out all fabrication and welding activities in the country.

54. The Board shall establish an oil and gas e-market place which shall —
   (a) provide a virtual platform to facilitate the transactions required for efficient delivery of goods and services in the industry;
   (b) provide functional interface with the Joint Qualification System and provide a universal and transparent governance structure drawn from industry stakeholder;
   (c) perform all other functions, roles and responsibilities to be set out in the regulations to be made by the Minister in accordance with the provisions of this Act.
   (d) track and monitor the Nigerian content performance of operators, project promoters as well as suppliers and service providers with th provision of relevant feedback.

55. The Board shall establish, maintain and operate a Joint Qualification System (JQS) in consultation with industry stakeholders which shall be administered in accordance with provisions set out in the Regulations to be made by the Minister in accordance with the provisions of this Act.

56. The Joint Qualification System shall constitute an industry databank of available capabilities
and shall be used for —
(a) sole system for Nigerian content registration and pre-qualification of contractors in the industry;
(b) verification of contractors’ capacities and capabilities;
(c) evaluation of application of Nigerian content in the operations of oil companies and contractors;
(d) data base for national skills development pool; and
(e) ranking and categorization of old service companies based on capabilities and Nigerian content.

57. The Board shall set up a consultative body to be known as the Nigerian Content Consultative Forum (NCCF) which shall provide a platform for information sharing and collaboration in the Nigerian oil and gas industry with respect to—
(a) upcoming projects in the oil and gas industry;
(b) information on available local capabilities; and
(c) other policy proposals that may be relevant to Nigerian content development.

58. The Nigerian Content Consultative Forum shall be made up of key industry stakeholders, government and regulatory agencies and representatives from the following sectors—
(a) fabrication;
(b) engineering;
(c) finance services, legal and insurance;
(d) shipping and logistics;
(e) materials and manufacturing;
(f) information and communication technology;
(g) petroleum technology association of Nigeria;
(h) education and training; and
(i) any other professional services nominated by the Board.

59. The Nigerian Content Monitoring Board shall undertake an effective monitoring of the implementation of the provisions of this Act.

60. Within sixty days of the beginning of each year, each operator shall submit to the Board their annual Nigerian Content Performance Report covering all its projects and activities for the year under review.

61. Subject to Section 60, the report shall specify by category of expenditure the Nigerian content on both a current and cumulative cost basis and shall set out—
(a) employment achievement in terms of hours or days worked by Nigerian and foreign workers and their status and report;
(b) procurement achievement in terms of quantity, tonnage of locally manufactured materials and materials of foreign origin.

62. The Board shall undertake regular assessment and verification of the Nigerian Content Performance Report filed by all operators in compliance with the provisions of this Act as may be considered appropriate by the Board.

63. The Board shall issue directives to operators, contractors and other entities or persons in order to develop a process to facilitate reporting of activities relating to any aspect of this Act.

64. For the purposes of assessment and verification, all operators and contractors shall provide the Board or its designated agent with access to their facilities and all documentation and information required for substantiating the Nigerian content reported.

65. The operator shall ensure that its partners, contractors and subcontractors are contractually bound to report Nigerian content information to the operator and, if so requested by the Board, directly to the Board, and to allow the Board or its designated agent access to their records for the purposes of assessment and verification of Nigerian content information reported to the operator or the Board.

66. The operators shall effectively communicate its Nigerian content policies and procedures to its contractors and subcontractors and to monitor and enforce their compliance.

67. The Board shall conduct workshops, conferences, seminars, symposia and any other public forum considered as appropriate for the benefit of operators, contractors, the public and other stakeholders to enhance the implementation of the provisions of this Act.
68. An operator, contractor or sub-contractor who carries out any project contrary to the provisions of this Act, commits an offence and is liable upon conviction to a fine of five percent of the project sum for each project in which the offence is committed or cancellation of the project.

PART II — ESTABLISHMENT OF THE NIGERIAN CONTENT MONITORING BOARD

69. (1) There is established the Nigerian Content Monitoring Board (in this Act referred to as “the Board”) which shall have the functions and powers conferred on it by this Act.

(2) The Board—
   (a) shall be a body corporate with perpetual succession and a common Nigerian seal; and
   (b) may sue and be sued in its corporate name.

70. The functions of the Board shall be to—
   (a) implement the provisions of this Act;
   (b) implement the regulations made by the Minister in relation to any aspect of this Act;
   (c) supervise, coordinate, administer, monitor and manage the development of Nigerian content in the Nigerian oil and gas industry;
   (d) supervise, coordinate, administer and monitor the implementation and development of Nigerian content as specified in the Schedule to this Act in the operations of operators, contractors and all other entities in the Nigerian oil and gas industry;
   (e) appraise, evaluate and approve the Nigerian content plans and reports submitted to the Board in compliance with the provisions of this Act;
   (f) award Certificate of Authorization and conduct reviews of the Nigerian content plans and reports submitted to the Board in compliance with the provisions of this Act;
   (g) administer and operate the e-market place and Joint Qualifications Systems set up in accordance with the provisions of this Act;
   (h) assist local contractors and Nigerian companies to develop their capabilities and capacities to further the attainment of the goal of developing Nigerian content in the Nigerian oil and gas industry;
   (i) make procedures to guide the implementation of this Act and ensure compliance with all the provisions of this Act;
   (j) monitor and coordinate the Nigerian content performance of all operators in accordance with the provisions of this Act;
   (k) make auditing procedures and conduct regular audits for the purposes of monitoring and implementing compliances with the provisions of this Act;
   (l) provide guidelines, definitions and measurement of Nigerian content and Nigerian content indicator to be utilized throughout the industry;
   (m) conduct studies, researches and investigations that may further the attainment of the goal of developing Nigerian content in the Nigerian oil and gas industry;
   (n) organize conferences, workshops, seminars, symposia, trainings, road shows and other public education fora to further the attainment of the goal of developing Nigerian content in the Nigerian oil and gas industry;
   (o) delegate any of its functions to any agent or operative appointed by the Council; and
   (p) do legally anything necessary to be done to facilitate the carrying out of its functions.

71. (1) There is established for the Board the Governing Council (in this Act referred to as the “Council”) which shall conduct the affairs of the Board.

(2) The Head Office of the Council and the Board shall be located in any of the oil or gas producing States of the Federation.

(3) The Council may establish branch offices of the Board in any of the gas or oil producing States of the Federation.

72. The Council shall consist of—
   (a) a Chairman who shall be the Minister of Petroleum Resources;
   (b) a representative of—
      (i) Nigerian National Petroleum Corporation,
      (ii) the agency in charge of technical regulation of the industry,
      (iii) Ministry of Petroleum Resources,
      (iv) Petroleum Technology Association of Nigeria,
      (v) Nigerian Content Consultative Forum,
(vi) Council of Registered Engineers of Nigeria,
(vii) National Insurance Commission; and
(c) Executive Secretary who shall be the Secretary of the Council.

73. (1) The Chairman and members of the Council shall be appointed by the President and shall
be persons of proven integrity and ability.
(2) The membership of the Council shall be on part time basis.

74. The Executive Secretary shall be on full time status.

75. (4) The Council shall have power to—
(a) manage and superintend the affairs of the Board;
(b) make rules and regulations for the proper functioning of the Board;
(c) employ and pay the staff of the Board appropriate remuneration commensurate in scale
with that of staff in organizations of similar stature; and
(d) enter into any negotiation, agreement and contractual relationship as may be necessary
or expedient for the discharge of the functions of the Board.

76. Subject to the provisions of section 75 of this Act, the Chairman and members of the Council
shall each hold office—
(a) for a term of four years and may be re-appointed for a further term of four years and no more;
(b) on such terms and conditions as may be specified in their letters of appointment.

77. A person shall cease to hold office as a member of the Council if—
(a) he dies;
(b) he becomes bankrupt;
(c) he is convicted of a felony or any offence involving dishonesty or membership fraud;
(d) he becomes of unsound mind or is incapable for any reason of carrying out his duties;
(e) he is guilty of a serious misconduct in relation to his duties;
(f) in the case of a person possessed of a professional qualification, he is disqualified or
suspended, other than at his own request, from practising his profession in any part of
the world by an order of a competent authority made in respect of that member; or
(g) he resigns his appointment by written notice under his hand to the President.

78. Where a member ceases to hold office for any reason before the expiration of his term,
another person representing the same interest as that member shall be appointed in his place
to finish the unexpired residue of the term.

79. The President may remove a member if he is satisfied that it is not of in the interest of the
Board or the public that the member continues in that office.

80. A member of the Council shall be paid such allowances and expenses as may be determined
by Revenue Mobilization, Allocation and Fiscal Commission using the scale applicable in
Nigeria oil and gas industry.

81. (1) There shall be an Executive Secretary for the Board, who shall be appointed by the
President.
(2) The Executive Secretary shall be—
(a) the Chief Executive and Accounting Officer of the Board;
(b) responsible to the Council for the execution of the policies and the administration of
the daily affairs of the Board; and
(c) a graduate of at least 15 years with cognate experience in the Nigeria oil or gas
industry.
(3) The Executive Secretary—
(a) shall be appointed for a term of four years in the first instance; and
(b) may be appointed for a further term of four years and no more.

82. The Executive Secretary shall be paid such remuneration as may be specified in his letter
of appointment or as determined by the Revenue Mobilization, Allocation and Fiscal
Commission using the scale applicable in the Nigeria oil and gas industry.

83. The Executive Secretary shall cease to hold office if any of the conditions specified in section
pertaining to cessation of membership of the Council applies to him.

The Executive Secretary may resign his appointment by a written notice under his hand delivered to the President.

The Council may appoint for the Board such number of employees as may in the opinion of the Council be expedient and necessary for the proper and efficient performance of the functions of the Board and shall pay them remunerations and allowances as it determines using the scale applicable in the Nigeria oil and gas industry.

The Council shall have power to appoint for the Board either directly or on secondment from the Public Service of the Federation, such number of employees as may, in the opinion of the Council, be required to assist the Board in the discharge of any of its functions under this Act.

The person seconded under Section 85 may elect to be transferred to the service of the Board and the previous service he may have rendered in the public service shall count as service to the Board for the purpose of any pension subsequently payable by the Board.

There shall be established in the head office of the Board—
(a) the Directorate of Finance and Personnel Management;
(b) the Directorate of Planning, Research and Statistics;
(c) the Directorate of Monitoring and Evaluation;
(d) the Directorate of Legal Services; and
(e) any other Directorate which the Council may establish.

(1) The Service in the Board shall be approved service for the purposes of the Pension Reform Act.
(2) The Officers and other persons employed in the Board shall be entitled to pension, gratuities and other retirement benefits as are enjoyed by persons holding equivalent ranks in the Civil Service of the Federation.
(3) Nothing in subsections (1) and (2) of this Section shall prevent the appointment of a person to any office on terms which preclude the grant of pension and gratuity in respect of that office.

The Board shall establish and maintain a fund to which all monies accruing to it shall be paid into or from which shall be defrayed all expenditure incurred by the Board.

(2) The Fund of the Board shall consist of—
(a) all subventions and budgetary allocations provided by the Federal Government;
(b) sums accruing to the Board by way of donations, gifts, grants, endowment, bequest or otherwise;
(c) interest and revenue accruing from savings and investments made by the Board;
(d) loans, which may be required from time to time for the objects of the Board, provided that the Board shall not, without the prior approval of the President, borrow money in compliance with the provisions of the Fiscal Responsibility Act; and
(e) other revenues accruing to the board from any other source.

The Council shall, not later than 30th September of each year, submit to the National Assembly, through the Minister, an estimate of the projected expenditure of the Board during the next succeeding year and shall include a copy of the audited accounts of that year and a copy of the auditor's report.

(1) The Board may accept gifts of money, land or other property on such terms and conditions, if any, as may be specified by the person or organization making the gift.
(2) The Board shall not accept any gift if the conditions attached thereto are inconsistent with the functions of the Board under this Act.

The Council shall approve any expenditure of the Board and shall—
(a) issue proper accounts and records of the transactions and affairs of the Board and ensure that all expenditure is duly authorized;
(b) prepare in respect of each financial year, a statement of account in such form as the Auditor-General may direct.

Act No. 31 of 2007.
95. (1) For the purpose of providing offices and premises necessary for the performance of its functions under this Act, the Board may, subject to the Land Use Act—
   (a) purchase or lease any interest in land or other property; and
   (b) construct offices and premises, equip and maintain same.

(2) The Board may, subject to the Land Use Act, sell or lease out any office use, office or premises held by it, which office or premises is no longer required for the performance of its functions under this Act.

96. The provisions of the Public Officer’s Protection Act shall apply in relation to any suit instituted against any officer or employee of the Board in his capacity as such.

97. A member of the Council, the Executive Secretary, any officer or employee of the Board shall be indemnified out of the assets of the Board against any proceeding, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted, if any such proceeding is brought against him in his capacity as a member, Executive Secretary, officer or employee of the Board.

98. A notice, summons or other document required or authorized to be served upon the Board under this Act or any other law or enactment may be served by delivering it to the Executive Secretary or by sending it by registered post and addressed to the Executive Secretary at the head office of the Board.

99. The Executive Secretary may with the approval of the Council engage persons with knowledge or experience in Nigerian content development or in matters relevant to the functions of the Board to assist the Board in the performance of its functions.

100. The Minister may issue to the Board directives in relation to Nigerian content development with respect to the application, administration and implementation of this Act.

101. (1) The Minister shall make regulations generally for the purpose of carrying out or giving effect to the provisions of this Act.

(2) The Minister shall conduct a review of the Schedule to this Act every two years with a view to ensuring a measurable and continuous growth in Nigerian content in all projects, operations, activities and transactions in the Nigerian oil and gas industry.

(3) The Council shall make standing orders regulating its proceedings or those of its standing committees in consultation with the Minister.

102. Subject to the approval of the Minister, the Board shall conduct a review of the Schedule to this Act at such intervals as it may determine but not later than every two years with a view to ensuring a measurable and continuous growth in Nigerian content in all projects, operations, activities and transactions in the Nigerian oil and gas industry for onward transmission to the National Assembly.

103. Upon the commencement of this Act, all functions and powers conferred on any agency or department of the Federal Government of Nigeria to carry out the implementation of Nigerian content development or policy in the Nigerian oil and gas industry by any law or enactment is hereby transferred to the Nigerian Content Monitoring Board established under this Act.

104. (1) A Fund to be known as the Nigerian Content Development Fund (the “Fund”) is established for purposes of funding the implementation of Nigerian content development in the Nigeria oil and gas industry.

(2) The sum of one per cent of every contract awarded to any operator, contractor, subcontractor, alliance partner or any other entity involved in any project, operation, activity or transaction in the upstream sector of the Nigeria oil and gas industry shall be deducted at source and paid into the Fund.

(3) The Fund shall be managed by the Nigerian Content Development Board and employed for projects, programmes, and activities directed at increasing Nigerian content in the oil and gas industry.

105. The Nigerian Content Monitoring Board in conjunction with NIMASA shall have powers to enforce compliance with relevant sections of Coastal and Inland Shipping (Cabotage) Acquisition of land or interest in land for office use. Cap. L5 LFN, 2004.


Indemnity of officers.

Service of documents.

Engagement of professionals and other staff.

Power of the Minister to give directive to the Board.

Registration.

Schedule.

Review of the Schedule.

Savings and transitional provision.

Establishment of Nigerian Content Development Fund.


247
Act in relation to matters pertaining to Nigerian content development.

106. In this Act—

"Joint Qualification System" means the industry databank of available capacities and capabilities in the Nigerian oil and gas industry;

"Labour Clause" means a clause mandating the use of a minimum percentage of Nigerian Labour in professional cadres in all contracts awarded in the Nigerian petroleum industry above a threshold value as stipulated by the Minister from time to time;

"Minister" means the Minister of Petroleum Resources;

"Nigerian Company" means a company formed and registered in Nigeria in accordance with the provision of Companies and Allied Matters Act with not less than 51% equity shares by Nigerians;

"NNPC" means Nigeria National Petroleum Corporation;

"NNPC Joint Ventures Partners" means oil companies that executed various petroleum agreements with NNPC;

"Nigerian Content" means the quantum of composite value added to or created in the Nigerian economy by a systematic development of capacity and capabilities through the deliberate utilization of Nigerian human, material resources and services in the Nigerian oil and gas industry;

"Nigerian Content Indicator" means a percentage rating of a company based on specific criteria defined on the basis of values ascribed to each criterion;

"Nigerian Oil and Gas Industry" means all activities connected with the exploration, development, exploitation, transportation and sale of Nigerian oil and gas resources including upstream and downstream oil and gas operations;

"Operator" means the Nigeria National Petroleum Company (NNPC), its subsidiaries and joint venture partners and any Nigerian, foreign or international oil and gas company operating in the Nigerian oil and gas industry under any petroleum arrangement;

"Partner" means any foreign company working on any project in partnership or as major contractor to an operator;

"Plan" means a Nigerian content plan submitted in compliance with any aspect of this Act;

"Oil and Gas e-market Place" means a virtual platform for buyers and sellers of goods and services in the oil and gas industry that allows for speedy and transparent transactions.

107. This Act may be cited as the Nigerian Oil and Gas Industry Content Development Act, 2010.
## SCHEDULE

*Sections 3(2), 11(1), (2), (3) and (4), 34 and 70 (d)*

### CODE DESCRIPTION

#### FEED AND DETAILED ENGINEERING AND OTHER ENGINEERING SERVICES

<table>
<thead>
<tr>
<th>Description</th>
<th>NC %</th>
<th>Measured Unit</th>
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<td>FEED and Detailed engineering on Offshore facilities—</td>
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<tr>
<td>Shallow Water</td>
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<td>FEED and Detailed engineering on LNG facility</td>
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<tr>
<td>FEED and Detailed engineering on Gas gathering Facilities</td>
<td>90%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>FEED and Detailed engineering on Deep offshore</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Facilities-Hull and topside modules</td>
<td>80%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>FEED and Detailed engineering on Deep offshore</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Floating concrete structure</td>
<td>80%</td>
<td>Man-Hour</td>
</tr>
</tbody>
</table>

#### FABRICATION AND CONSTRUCTION

<table>
<thead>
<tr>
<th>Description</th>
<th>NC %</th>
<th>Measured Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Terminal/Oil Movement Systems</td>
<td>80%</td>
<td>Volume</td>
</tr>
<tr>
<td>Drilling Modules/Packages</td>
<td>75%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Piles, Anchors, Buoys, Jackets, Bridges, Flare</td>
<td>80%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Booms, Storage Tanks, Pressure Vessels</td>
<td>60%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Umbilical</td>
<td>60%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Topside module (process modules and storage modules)</td>
<td>50%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Accommodation module</td>
<td>70%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Subsea Systems</td>
<td>60%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Pipeline Systems</td>
<td>100%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Risers</td>
<td>100%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Utilities module/packages</td>
<td>50%</td>
<td>Tonnage</td>
</tr>
</tbody>
</table>

#### MATERIALS AND PROCUREMENT

<table>
<thead>
<tr>
<th>Description</th>
<th>NC %</th>
<th>Measured Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Steel plates, Flat Sheets, Sections</td>
<td>100%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Steel Pipes</td>
<td>100%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Low Voltage Cables</td>
<td>90%</td>
<td>Length</td>
</tr>
<tr>
<td>High Voltage Cables</td>
<td>45%</td>
<td>Length</td>
</tr>
<tr>
<td>Valves</td>
<td>60%</td>
<td>Number</td>
</tr>
<tr>
<td>Drilling mud—Baryte, Bentonite</td>
<td>60%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Cement (Portland)</td>
<td>80%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Cement (Hydraulic)</td>
<td>60%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Heat exchangers</td>
<td>50%</td>
<td>Number</td>
</tr>
<tr>
<td>Steel Ropes</td>
<td>60%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Protective paints</td>
<td>60%</td>
<td>Litres</td>
</tr>
<tr>
<td>Glass Reinforced Epoxy (GRE) pipes</td>
<td>60%</td>
<td>Tonnage</td>
</tr>
</tbody>
</table>
### WELL AND DRILLING SERVICES/PETROLEUM TECHNOLOGY

<table>
<thead>
<tr>
<th>Description</th>
<th>NC %</th>
<th>Measured Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reservoir Services</td>
<td>75%</td>
<td>Spend</td>
</tr>
<tr>
<td>Well completion services (permanent gauges and intelligent wells)</td>
<td>80%</td>
<td>Spend</td>
</tr>
<tr>
<td>Wire line services (electric open holes, electric cased hole, slickline)</td>
<td>45%</td>
<td>Spend</td>
</tr>
<tr>
<td>Logging While Drilling (LWD) services</td>
<td>75%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Measurement While Drilling (MWD) (direction and inclination/Gamma ray)</td>
<td>90%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Production drilling service</td>
<td>85%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Performance services (T and P)</td>
<td>90%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>2D Seismic data acquisition services</td>
<td>85%</td>
<td>Length</td>
</tr>
<tr>
<td>Well Overhauling/Stimulation Services</td>
<td>85%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Wellhead Services</td>
<td>85%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Directional Surveying Services</td>
<td>100%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Cutting Injections/Cutting Disposal Services</td>
<td>100%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Recutting Inspection Services</td>
<td>85%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Cased Hole Logging Services (Gyro, Perforation, Gauges, Gyro, PLT, Perforation, PLT, Gauges)</td>
<td>90%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Well Watch Services</td>
<td>70%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Cement service</td>
<td>75%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Coiled Tubing Services</td>
<td>75%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Pumping Services</td>
<td>95%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Fluid/Bottom Hole Sampling Services</td>
<td>80%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>OCTS Services (Cleaning, hardbanding, recutting, rethreading, storage)</td>
<td>95%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Well Crisis Management Services</td>
<td>90%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Directional Drilling Services</td>
<td>90%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Other Drilling Services</td>
<td>80%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Petrophysical Interpretation Services</td>
<td>75%</td>
<td>Volume/ Man-Hour</td>
</tr>
<tr>
<td>Extended Well Test/Early Production Services including Provision of</td>
<td>50%</td>
<td>Spend</td>
</tr>
<tr>
<td>Floating or Jackup Production Unit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provision of all Catering, Cleaning, Office and Security Service at Location/Platform</td>
<td>80%</td>
<td>Spend</td>
</tr>
<tr>
<td>Rental of Drill Pipe</td>
<td>75%</td>
<td>Spend</td>
</tr>
<tr>
<td>Electric Open Hole</td>
<td>45%</td>
<td>Spend</td>
</tr>
<tr>
<td>Electric ceased Holes</td>
<td>100%</td>
<td>Spend</td>
</tr>
<tr>
<td>Slickline</td>
<td>100%</td>
<td>Spend</td>
</tr>
<tr>
<td>Well head Safety panels</td>
<td>100%</td>
<td>Spend</td>
</tr>
<tr>
<td>CHEMICAL:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Drilling, Process, Maintenance</td>
<td>90%</td>
<td>Spend</td>
</tr>
</tbody>
</table>

### RESEARCH AND DEVELOPMENT SERVICES (R AND D – RELATED TO OPERATOR’S IN-COUNTRY)

<table>
<thead>
<tr>
<th>Description</th>
<th>NC %</th>
<th>Measured Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineering Studies - Reservoir, Facilities, Drilling etc.</td>
<td>60%</td>
<td>Spend</td>
</tr>
<tr>
<td>Geological and Geophysical Services</td>
<td>80%</td>
<td>Spend</td>
</tr>
</tbody>
</table>
### Safety and Environmental Studies
- Local Materials substitution Studies: 75% Spend

### EXPLORATION, SUBSURFACE, PETROLEUM ENGINEERING AND SEISMIC

<table>
<thead>
<tr>
<th>Description</th>
<th>NC %</th>
<th>Measured Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>3D Seismic Data acquisition services</td>
<td>100%</td>
<td>Spend</td>
</tr>
<tr>
<td>4D Seismic data processing services</td>
<td>55%</td>
<td>Spend</td>
</tr>
<tr>
<td>2D Seismic data processing services</td>
<td>100%</td>
<td>Spend</td>
</tr>
<tr>
<td>Geophysical interpretation services</td>
<td>90%</td>
<td>Spend</td>
</tr>
<tr>
<td>Geological evaluation services (Organic Geochemistry, Petrology, Diagenesis, Giostatigraphy, Fluid Characterization, PVT, Core Analysis, Flooding)</td>
<td>80%</td>
<td>Spend</td>
</tr>
<tr>
<td>Mud logging services</td>
<td>90%</td>
<td>Spend</td>
</tr>
<tr>
<td>Coring services</td>
<td>90%</td>
<td>Spend</td>
</tr>
<tr>
<td>Well Testing Service</td>
<td>55%</td>
<td>Spend</td>
</tr>
<tr>
<td>Drilling rigs (Swamp)</td>
<td>60%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Drilling Rigs (Semi submersibles/Jack ups/Others)</td>
<td>55%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Drilling Rigs (Land)</td>
<td>70%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Work-over Rigs (Swamp)</td>
<td>70%</td>
<td>Spend</td>
</tr>
<tr>
<td>Snubbing Services</td>
<td>80%</td>
<td>Spend</td>
</tr>
<tr>
<td>Liner Float, Hangers and Running Equipment Services</td>
<td>55%</td>
<td>Spend</td>
</tr>
<tr>
<td>Field Development Plan</td>
<td>100%</td>
<td>Spend</td>
</tr>
<tr>
<td>2D Seismic Data Interpretation Services</td>
<td>100%</td>
<td>Spend</td>
</tr>
<tr>
<td>3D Seismic Data Interpretation Services</td>
<td>100%</td>
<td>Spend</td>
</tr>
<tr>
<td>4D Seismic Data Interpretation Services</td>
<td>55%</td>
<td>Spend</td>
</tr>
<tr>
<td>Drilling rigs (Land)</td>
<td>70%</td>
<td>Man-Hour</td>
</tr>
</tbody>
</table>

### TRANSPORTATION/SUPPLY/DISPOSAL SERVICES

<table>
<thead>
<tr>
<th>Description</th>
<th>NC %</th>
<th>Measured Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tugs/Remotely Operated Vehicle (ROV) support/diving support vessels</td>
<td>65%</td>
<td>Spend</td>
</tr>
<tr>
<td>Barges</td>
<td>95%</td>
<td>Spend</td>
</tr>
<tr>
<td>Accommodation platforms/Vessels</td>
<td>90%</td>
<td>Spend</td>
</tr>
<tr>
<td>Disposal/Distribution and Waste Transport Services</td>
<td>100%</td>
<td>Spend</td>
</tr>
<tr>
<td>Rental of Cranes and Special Vehicles</td>
<td>75%</td>
<td>Spend</td>
</tr>
<tr>
<td>Freight Forwarding/Logistics Management Services</td>
<td>65%</td>
<td>Spend</td>
</tr>
<tr>
<td>Supply Base/Warehouse/Storage Services</td>
<td>70%</td>
<td>Spend</td>
</tr>
<tr>
<td>Truck Package/Product Transportation Services</td>
<td>100%</td>
<td>Spend</td>
</tr>
</tbody>
</table>

### HEALTH, SAFETY AND ENVIRONMENT

<table>
<thead>
<tr>
<th>Description</th>
<th>NC %</th>
<th>Measured Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Clean-up Service</td>
<td>100%</td>
<td>Man-Hours</td>
</tr>
<tr>
<td>Pollution Control</td>
<td>45%</td>
<td>Spend</td>
</tr>
<tr>
<td>Waste Water Treatment Services</td>
<td>65%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Fire and Gas Protection System Services</td>
<td>50%</td>
<td>Man-Hour</td>
</tr>
</tbody>
</table>
Ventilation/Heating/Sanitary Services
85% Man-Hours

Waste Disposal/Drainage Services
100% Man-Hours

Industrial Cleaning Services
100% Man-Hours

Disposal/Distribution and Waste Transport Services etc.
100% Spend

Safety/Protection/Security/firefighting System Services
90% Man-Hours

Preservation of Mechanical and Electrical Components Services
95% Man-Hours

Equipment brokerage services
75% Spend

Temporary Accommodation/Camp Services
80% Spend

Catering Services
100% Spend

Cleaning and Laundry Services
100% Spend

Security Services
95% Spend

Medical Services
60% Spend

Equipment Brokerage Services
75% Spend

Other Supporting Services
85% Spend

Pollution Control
90% Man-Hours/Spend

INFORMATION SYSTEMS/INFORMATION TECHNOLOGY/COMMUNICATION SERVICES

<table>
<thead>
<tr>
<th>Description</th>
<th>NC %</th>
<th>Measured Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Network Installation/Support Services</td>
<td>85%</td>
<td>Spend</td>
</tr>
<tr>
<td>Software Development and Support Services</td>
<td>45%</td>
<td>Spend</td>
</tr>
<tr>
<td>Computer Based Modeling Services</td>
<td>51%</td>
<td>Spend</td>
</tr>
<tr>
<td>Computer Based Simulation/Training Programs Services</td>
<td>51%</td>
<td>Spend</td>
</tr>
<tr>
<td>CAL/CAP Services</td>
<td>51%</td>
<td>Spend</td>
</tr>
<tr>
<td>Hardware Installation Support Services</td>
<td>50%</td>
<td>Spend</td>
</tr>
<tr>
<td>Operating System Installation/Support Services</td>
<td>50%</td>
<td>Spend</td>
</tr>
<tr>
<td>User Support/Help Desk Services</td>
<td>60%</td>
<td>Spend</td>
</tr>
<tr>
<td>Library Services</td>
<td>70%</td>
<td>Spend</td>
</tr>
<tr>
<td>IT Management Consultancy Services</td>
<td>50%</td>
<td>Spend</td>
</tr>
<tr>
<td>Data Management Services</td>
<td>50%</td>
<td>Spend</td>
</tr>
<tr>
<td>Telecommunication Installation/Support Services</td>
<td>60%</td>
<td>Spend</td>
</tr>
<tr>
<td>Data and Message transmitting Services</td>
<td>60%</td>
<td>Spend</td>
</tr>
<tr>
<td>Rental of Telecommunication Lines</td>
<td>75%</td>
<td>Spend</td>
</tr>
<tr>
<td>Telecommunication Subscription Services</td>
<td>85%</td>
<td>Spend</td>
</tr>
<tr>
<td>Public Address System Services</td>
<td>95%</td>
<td>Spend</td>
</tr>
<tr>
<td>Other Information Systems (IS)/Information Technology (IT) Services</td>
<td>75%</td>
<td>Spend</td>
</tr>
</tbody>
</table>

MARINE, OPERATIONS AND LOGISTICS SERVICES

<table>
<thead>
<tr>
<th>Description</th>
<th>NC %</th>
<th>Measured Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Telecommunication Services</td>
<td>90%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Supply of crew men for domestic coastal services</td>
<td>80%</td>
<td>Number</td>
</tr>
<tr>
<td>Diving/ROV/Submersible Operations</td>
<td>70%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Hook-up and Commissioning including Marine Installation Services</td>
<td>75%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Description</td>
<td>NC %</td>
<td>Measured Unit</td>
</tr>
<tr>
<td>-------------------------------------------------------</td>
<td>------</td>
<td>---------------------</td>
</tr>
<tr>
<td>Dredging Service</td>
<td>55%</td>
<td>Man-Hours/Spend</td>
</tr>
<tr>
<td>Gravel and Rock Dumping Service</td>
<td>65%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Floating Storage Units (FSU)</td>
<td>45%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Subsea Pipeline Protection Services</td>
<td>55%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Installation of Subsea Package</td>
<td>60%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Mooring System Services</td>
<td>50%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Ship Chandler Service</td>
<td>90%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Moving Services</td>
<td>100%</td>
<td>Man-Hours/Spend</td>
</tr>
<tr>
<td>Supply Vessels</td>
<td>45%</td>
<td>Man-Hours/Spend</td>
</tr>
<tr>
<td>Stand-by Vessels</td>
<td>55%</td>
<td>Spend</td>
</tr>
<tr>
<td>Domestic Clearing of Cargos</td>
<td>30%</td>
<td>Spend</td>
</tr>
<tr>
<td>Bunkering Services</td>
<td>60%</td>
<td>Spend</td>
</tr>
<tr>
<td>Marine Insurance</td>
<td>40%</td>
<td>Spend</td>
</tr>
<tr>
<td>Marine Consulting</td>
<td>40%</td>
<td>Spend</td>
</tr>
<tr>
<td>Marine Logistic</td>
<td>30%</td>
<td>Spend</td>
</tr>
</tbody>
</table>

**FINANCE AND INSURANCE**

<table>
<thead>
<tr>
<th>Description</th>
<th>NC %</th>
<th>Measured Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Banking Services</td>
<td>100%</td>
<td>Usage</td>
</tr>
<tr>
<td>Monetary Intermediation Services</td>
<td>70%</td>
<td>Usage</td>
</tr>
<tr>
<td>Credit Granting Services</td>
<td>50%</td>
<td>Loan Amount</td>
</tr>
<tr>
<td>Security Broking and Fund Management Services</td>
<td>100%</td>
<td>Spend</td>
</tr>
<tr>
<td>Financial Management Consultancy Services</td>
<td>70%</td>
<td>Spend</td>
</tr>
<tr>
<td>Accounting Services</td>
<td>70%</td>
<td>Man-Hours</td>
</tr>
<tr>
<td>Auditing Services</td>
<td>100%</td>
<td>Spend</td>
</tr>
<tr>
<td>Life Insurance Services</td>
<td>100%</td>
<td>Spend</td>
</tr>
<tr>
<td>Pension Funding Services</td>
<td>100%</td>
<td>Spend</td>
</tr>
<tr>
<td>Non-Life Insurance Services</td>
<td>70%</td>
<td>Spend</td>
</tr>
<tr>
<td>Insurance Broking Services</td>
<td>100%</td>
<td>Spend</td>
</tr>
</tbody>
</table>

**INSTALLATION, HOOKUP AND COMMISSIONING**

<table>
<thead>
<tr>
<th>Description</th>
<th>NC %</th>
<th>Measured Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surface Treatment, Sandblasting, Painting, Coating and Fire proofing Services</td>
<td>80%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Subsea construction services</td>
<td>45%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Hookup and commissioning including marine stalling services</td>
<td>75%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Installation of subsea packages</td>
<td>45%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Electrical/Instrument Services</td>
<td>45%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Insulation Services</td>
<td>50%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Diving/ROV/Submersible operations</td>
<td>75%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Subsea Construction Services</td>
<td>45%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Pipe Cutting and Bending Services</td>
<td>100%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Catalyst Handling/Regeneration Services</td>
<td>85%</td>
<td>Man-Hour</td>
</tr>
</tbody>
</table>
Bolt Tensioning Services  75%  Man-Hour
Rope Access Services  70%  Man-Hour
Welding and Jointing Services  60%  Man-Hour
Maintenance and Modification of Pumps and Rotating Equipment  65%  Man-Hour
Heat Treating and Demagnetising Services  80%  Man-Hour
Tank Bottom Sludge Treatment Services  85%  Man-Hour
Valve Management Services including Testing and Repair  85%  Man-Hour
Crane Management Services Rate  80%  Man-Hour
Other Construction/Maintenance Services  80%  Man-Hour/
Pipe laying/Cable Laying Services  50%  Man-Hour
Trenching and Excavation Services  100%  Man-Hour
Cranes/Crane Barges/Heavy Lift Vessels  100%  Man-Hour
Marine Services  65%  Man-Hour/Spend
Subsea Services  45%  Man-Hour
Well Services  70%  Man-Hour/Spend
Cutting Services  75%  Man-Hour/Spend
Site Services  85%  Man-Hour/Spend
Other Decommissioning and Abandonment Services  90%  Man-Hour/Spend
Service Station Tank Maintenance/Services  75%  Spend
Electrical/Electronic Systems Integration  55%  Spend
Process Testing including Helium and Nitrogen Services  65%  Spend

INSPECTION, TESTING AND CERTIFICATION

<table>
<thead>
<tr>
<th>Description</th>
<th>NC %</th>
<th>Measured Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Material Technology/Anti-Corrosion/Surface Protection Services</td>
<td>85%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Non-Destructive Testing (NDT) Services</td>
<td>60%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Pipeline Flushing, External/Internal Inspection, Pigging Services Rate</td>
<td>85%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Surface Treatment Inspection Services</td>
<td>90%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Pressure Testing Services</td>
<td>90%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Instrument Testing/Calibration Services</td>
<td>85%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Load Testing Services</td>
<td>75%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Diving/ROV operations</td>
<td>65%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Laboratory Testing Services</td>
<td>55%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Dimensional Control/Verification Services</td>
<td>45%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Third Party Measurement Services</td>
<td>45%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Other Inspection Services</td>
<td>45%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Quality Management Systems Certificate</td>
<td>55%</td>
<td>Nos. of Certification obtained</td>
</tr>
<tr>
<td>Environmental Management Systems Certificate</td>
<td>45%</td>
<td>Nos.</td>
</tr>
<tr>
<td>Safety Management System Certification</td>
<td>45%</td>
<td>Nos.</td>
</tr>
<tr>
<td>Certification of Welders</td>
<td>50%</td>
<td>Nos.</td>
</tr>
</tbody>
</table>
Certification by NDT personnel 45% Man-Hour
Certification of machinery and equipment 45% Numbers
Certification on NDT Personnel 50% Nos.
Certificate of Machinery 50% Nos.
Certification of Cranes and Lifting Appliances 45% Nos.
Certification of Pressurised Equipment 45% Nos.
Evaluation and Certification of Software and Electronics (IT) 45% Nos.
Notified Body for Machinery 45% Nos.
Notified Body for simple Pressure Vessels 45% Nos.
Notified Body for Telecommunication Terminal Equipment 50% Nos.
Notified Body for Personal Protection Equipment 45% Nos.
Notified Body for Lifts 50% Nos.
Notified Body for Pressure Containing Equipment 45% Nos.
Integrity Management Services 50% Nos.
Other Certification Services 50% Nos.
Other Testing Services 49% Man-Hour

**PROJECT MANAGEMENT/CONSULTING SERVICES**

<table>
<thead>
<tr>
<th>Description</th>
<th>NC %</th>
<th>Measured Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Management and Supervision Services</td>
<td>80%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Project Administration Services/Project Management</td>
<td>80%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Quality Assurance QA/QC Consultancy</td>
<td>45%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Safety, Health and Environment Consultancy</td>
<td>45%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Risk Analysis Consultancy</td>
<td>45%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Personnel/Training System Consultancy (for Training Courses select 3.99.13)</td>
<td>45%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Legal Consultancy</td>
<td>50%</td>
<td>Contracts</td>
</tr>
<tr>
<td>Cost and Planning Consultancy</td>
<td>75%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Material Administration Consultancy</td>
<td>75%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Technical Documentation/Document Control Consultancy</td>
<td>85%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Advertising/Public Affairs/Public Relations Consultancy</td>
<td>80%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Marketing and Market Research Consultancy</td>
<td>75%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Translation and Manual Writing Consultancy</td>
<td>45%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Welding and Jointing Consultancy</td>
<td>45%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Warranty Surveyors</td>
<td>45%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Third Party Evaluation/Verification Consultancy</td>
<td>50%</td>
<td>Spend</td>
</tr>
<tr>
<td>Energy Conservation Consultancy</td>
<td>65%</td>
<td>Spend</td>
</tr>
<tr>
<td>Decommissioning and Abandonment Consultancy</td>
<td>90%</td>
<td>Spend</td>
</tr>
<tr>
<td>Meteorological Consultancy</td>
<td>55%</td>
<td>Spend</td>
</tr>
<tr>
<td>Staff Search/Selection Consultancy</td>
<td>80%</td>
<td>Spend</td>
</tr>
<tr>
<td>Sub-surface Consultancy (Geological, Geophysical, Recervoir)</td>
<td>90%</td>
<td>Spend</td>
</tr>
<tr>
<td>Design Consultancy (Industrial Design, Web Design etc.)</td>
<td>85%</td>
<td>Man-Hour</td>
</tr>
<tr>
<td>Marine Consultancy</td>
<td>50%</td>
<td>Spend</td>
</tr>
</tbody>
</table>

255
<table>
<thead>
<tr>
<th>Description</th>
<th>NC %</th>
<th>Measured Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Soil Investigation Services</td>
<td>80%</td>
<td>Spend</td>
</tr>
<tr>
<td>Navigation/Positioning Services</td>
<td>50%</td>
<td>Spend</td>
</tr>
<tr>
<td>Geotechnical Services</td>
<td>60%</td>
<td>Spend</td>
</tr>
<tr>
<td>Geophysical and Hydrographic Site Survey</td>
<td>100%</td>
<td>Spend</td>
</tr>
<tr>
<td>Oceanographic Services</td>
<td>60%</td>
<td>Spend</td>
</tr>
<tr>
<td>Rig Positioning Services</td>
<td>65%</td>
<td>Spend</td>
</tr>
<tr>
<td>Photogrammetric Surveying Services</td>
<td>45%</td>
<td>Spend</td>
</tr>
<tr>
<td>Chart and Map Production Services</td>
<td>45%</td>
<td>Spend</td>
</tr>
<tr>
<td>Rental of Surveying/Positioning Equipment Services</td>
<td>45%</td>
<td>Spend</td>
</tr>
<tr>
<td>Survey and Positioning Support Services</td>
<td>75%</td>
<td>Spend</td>
</tr>
<tr>
<td>Aeromagnetic Survey</td>
<td>45%</td>
<td>Area</td>
</tr>
</tbody>
</table>

**SURVEYING/POSITIONING SERVICES**

**DESCRIPTION**

<table>
<thead>
<tr>
<th>Description</th>
<th>NC %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Car Wash Equipment Maintenance/Services Canopy Equipment</td>
<td>90%</td>
</tr>
<tr>
<td>Maintenance/Services</td>
<td></td>
</tr>
<tr>
<td>Dredging services</td>
<td>90%</td>
</tr>
<tr>
<td>Signs and Accessories Maintenance/Services</td>
<td>55%</td>
</tr>
<tr>
<td>Services Station Pumps Maintenance/Services</td>
<td>80%</td>
</tr>
<tr>
<td>Payment Terminal Maintenance/Services</td>
<td>65%</td>
</tr>
<tr>
<td>Service Station Tanks Maintenance/Services</td>
<td>80%</td>
</tr>
<tr>
<td>Subsea systems</td>
<td>75%</td>
</tr>
<tr>
<td>Pipeline Systems</td>
<td>45%</td>
</tr>
<tr>
<td>Risers</td>
<td>60%</td>
</tr>
<tr>
<td>Umbilicals</td>
<td>49%</td>
</tr>
<tr>
<td>Terminal/Oil Movement Systems</td>
<td>51%</td>
</tr>
<tr>
<td>Accommodation/Office/Workshop/Storage Modules</td>
<td>70%</td>
</tr>
<tr>
<td>Process Modules/Packages</td>
<td>80%</td>
</tr>
<tr>
<td>Utilities Modules/Packages</td>
<td>65%</td>
</tr>
<tr>
<td>Drilling Modules/Packages</td>
<td>80%</td>
</tr>
<tr>
<td>Buildings including Services Stations</td>
<td>70%</td>
</tr>
<tr>
<td>Engineering Modification and Maintenance Services for a Site/Platform</td>
<td>90%</td>
</tr>
</tbody>
</table>

**MODIFICATION AND MAINTENANCE**

<table>
<thead>
<tr>
<th>Description</th>
<th>NC %</th>
<th>Measured Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Car Wash Equipment Maintenance/Services Canopy Equipment</td>
<td>90%</td>
<td>Spend</td>
</tr>
<tr>
<td>Maintenance/Services</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dredging services</td>
<td>90%</td>
<td>Spend</td>
</tr>
<tr>
<td>Signs and Accessories Maintenance/Services</td>
<td>55%</td>
<td>Spend</td>
</tr>
<tr>
<td>Services Station Pumps Maintenance/Services</td>
<td>80%</td>
<td>Spend</td>
</tr>
<tr>
<td>Payment Terminal Maintenance/Services</td>
<td>65%</td>
<td>Spend</td>
</tr>
<tr>
<td>Service Station Tanks Maintenance/Services</td>
<td>80%</td>
<td>Spend</td>
</tr>
<tr>
<td>Subsea systems</td>
<td>75%</td>
<td>Spend</td>
</tr>
<tr>
<td>Pipeline Systems</td>
<td>45%</td>
<td>Spend</td>
</tr>
<tr>
<td>Risers</td>
<td>60%</td>
<td>Spend</td>
</tr>
<tr>
<td>Umbilicals</td>
<td>49%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Terminal/Oil Movement Systems</td>
<td>51%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Accommodation/Office/Workshop/Storage Modules</td>
<td>70%</td>
<td>Volume</td>
</tr>
<tr>
<td>Process Modules/Packages</td>
<td>80%</td>
<td>Spend</td>
</tr>
<tr>
<td>Utilities Modules/Packages</td>
<td>65%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Drilling Modules/Packages</td>
<td>80%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Buildings including Services Stations</td>
<td>70%</td>
<td>Tonnage</td>
</tr>
<tr>
<td>Engineering Modification and Maintenance Services for a Site/Platform</td>
<td>90%</td>
<td>Tonnage</td>
</tr>
</tbody>
</table>
SHIPPING

Description  NC %  Measured Unit
Domestic coastal carriage of petroleum products  60%  Spend
Tow of oil and gas infrastructure and vessels conveying Oil and Gas products from or to any Port of point in Nigerian waters  90%  Spend
Supply of very large crude carriers (VLCC)  90%  Spend

I certify, in accordance with Section 2 (1) of the Acts Authentication Act, Cap. A2, Laws of the Federation of Nigeria 2004, that this is a true copy of the Bill passed by both Houses of the National Assembly.

OLUYEMI OGUNYOMI
Clerk to the National Assembly
29th Day of March, 2010.

EXPLANATORY MEMORANDUM
This Act provides for the development of Nigerian content in the Nigerian oil and gas industry, Nigeria content plan, surpervision, co-ordination, monitoring and implementation of Nigerian Content.

SCHEDULE TO NIGERIAN OIL INDUSTRY CONTENT DEVELOPMENT BILL, 2010.

<table>
<thead>
<tr>
<th>(1) Short title of the Bill</th>
<th>(2) Long title of the Bill</th>
<th>(3) Summary of the contents of the Bill</th>
<th>(4) Date Passed by the Senate</th>
<th>(5) Date Passed by the House of Representatives</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nigerian Oil and Gas Industry Content Development Bill, 2010.</td>
<td>An Act to provide for the development of Nigerian content in the Nigerian Oil and Gas Industry, Nigerian content plan, supervision, co-ordination, monitoring and implementation of Nigerian content; and for related matters.</td>
<td>This Bill seeks to provide for the development of Nigerian content in the Nigerian Oil and Gas Industry, Nigerian content plan, supervision, co-ordination, monitoring and implementation of Nigerian content.</td>
<td>10th March, 2010</td>
<td>3rd March, 2010</td>
</tr>
</tbody>
</table>

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.

I ASSENT.

OLUYEMI OGUNYOMI,
Clerk to the National Assembly
29th Day of March, 2010.

DR GOODLUCK EBELE JONATHAN, GCFR
President of the Federal Republic of Nigeria
22nd Day of April, 2010
TAXES AND LEVIES (APPROVED LIST FOR COLLECTION) ACT

ARRANGEMENT OF SECTIONS

SECTION
1. Responsibility for collecting taxes, and levies, etc.
2. Assessment and collection of taxes.
3. Offences.
4. Interpretation.
5. Short title.

SCHEDULE

TAXES AND LEVIES (APPROVED LIST FOR COLLECTION) ACT 1998
[No. 21 of 1998]

Commencement [130th September 1998]

THE FEDERAL MILITARY GOVERNMENT hereby Acts as follows:

1. Responsibility for collecting certain taxes and levies etc.
   (1) Notwithstanding anything contained in the Constitution of the Federal Republic of Nigeria, 1979, as amended, or in any other enactment or Law, the Federal Government, State Government and Local government shall be responsible for collecting the taxes and levies listed in Part I, Part II and Part III of the Schedule to this Act respectively.
   (2) The Minister of Finance may, on the advice of the Joint Tax board and by Order published in the Gazette, amend the Schedule to this Act.

2. Assessment and collections of taxes
   (1) Notwithstanding anything contained in the Constitution of the Federal Republic of Nigeria 1979, as amended, or in any other enactment or law, no person, other than the appropriate tax authority, shall assess or collect, on behalf of the Government, any tax or levy listed in the schedule to this Decree, and members of the Nigeria Police Force shall only be used in accordance with the provisions of the tax laws.
   (2) No person, including a tax authority, shall mount a roadblock in any part of the Federation for the purpose of collecting any tax or levy.

3. Offences
   A person who:
   (a) collect or levies any tax or levy; or
   (b) mounts a road block or causes a road block to be mounted for the purpose of collecting any tax or levy,
   in contravention of 2 of this Act, is guilty of an offence and liable on conviction to a fine of ₦50,000 or imprisonment for 3 years or both such fine and imprisonment.

4. Interpretation
   In this Act, unless the context otherwise requires—
   “Government” means the Federal, State or local government;
   “Joint Tax Board” means the Joint Tax Board established under the provisions of the Personal Income Tax Act 1993;
   “levy” includes any fee and charge;
   “tax authority” means—
   (a) The Federal Board of Inland Revenue, The State Board of Internal Revenue or the Local Government Revenue Committee; or
5. **Short title**

   This Act may be cited as the Taxes and Levies (Approved List for Collection) Act.

---

**SCHEDULE**

[Section 1.]

**PART I**

*Taxes to be collected by the Federal Government*

1. Companies income tax
2. Withholding tax on companies, residents of the Federal Capital territory, Abuja and non-resident individuals.
3. Petroleum Profits tax
4. Value added tax
5. Education tax
6. Capital gains tax on residents of the Federal Capital Territory, Abuja, bodies corporate and non-resident individuals
7. Stamp duties on bodies corporate and residents of the Federal Capital Territory, Abuja.
8. Personal income tax in respect of:
   (a) members of the Armed Forces of the Federation;
   (b) members of the Nigeria Police Force;
   (c) residents of the Federal Capital Territory, Abuja; and
   (d) staff of the Ministry of Foreign Affairs and non-resident individuals.

**PART II**

*Taxes and levies to be collected by the State Government*

1. Personal Income Tax in respect of:
   (a) Pay-As-You-Earn (PAYE); and
   (b) direct taxation (Self assessment).
2. Withholding tax (individuals only)
3. Capital gains (individuals only).
4. Stamp duties on instruments executed by individuals.
5. Pools betting and lotteries, gaming and casino taxes.
6. Road taxes.
7. Business premises registration fee respect of:
   (a) urban areas as defined by each state, maximum of (i) urban areas as defined by each registration, and (ii) \(₦5,000\) per annum of registration; and
   (b) rural areas:
     (i) \(₦1,000\) per annum for renewal of registration.
8. Development levy (individual only) not more than \(₦100\) per annum on all taxable individuals.
9. Naming of street registration fees in the State Capital.
10. Right of Occupancy fees on lands owned by the state Government in urban areas of the State.
11. Market taxes and levies where state finance is involved.

**PART III**

*Taxes and levies to be collected by the Local Government*

1. Shops and kiosks rates.
2. Tenement rates.
3. On and Off Liquor License fees
4. Slaughter slab fees.
5. Marriage, birth and death registration fees.
6. Naming of street registration fee, excluding any street in the State capital.
7. Right of Occupancy fees on lands rural areas, excluding those collectable by the Federal and State government.
8. Market taxes and levies excluding any market where State finance is involved.
10. Domestic animal license fees.
11. Bicycle, truck, canoe, wheelbarrow and cart fees, other than a mechanically propelled truck.
12. Cattle tax payable by cattle fanners only.
14. Radio and television license fees (other than radio and television transmitter).
15. Vehicle radio license fees (to be imposed by the Local government of the State in which the car registered).
16. Wrong parking charges.
17. Public convenience, sewage and refuse disposal fees.
18. Customary burial ground permit fees.
20. Signboard and Advertisement permit fees.

MADE at Abuja this 30th this of September 1998

GENERAL ABDULSALAMI ALHAJI ABUBAKAR
Head of State, Commander-in-Chief of the Armed Forces
Federal Republic of Nigeria

Explanatory Note
(This note does form part of the above Act but is intend to explain its purpose)
The Act, among other things, lists the taxes and levies that should be collected by each tier of government as announced in the 1997 and 1998 Budget Speeches to avoid multiplicity of taxes.
PRE-SHIPMENT INSPECTION OF EXPORT ACT 1996

ARRANGEMENT OF SECTIONS

SECTION

PART I. PRE-SHIPMENT INSPECTION OF EXPORTS, ETC

1. Pre-shipment inspection of goods.
2. Goods liable to pre-shipment inspection.
3. The goods listed in the export Prohibition list set out in Schedule 6 to the Customs, Excise, etc.
4. Inspection of second-hand goods.
5. Inspection of chemical-based goods.
6. Inspection of pharmaceutical products.

PART II. ISSUANCE OF CERTIFICATE OF INSPECTION

7. Issuance Provisional Certificate of Inspection.
8. Issuance of Certificate of Inspection.

PART III. PAYMENT FOR EXPORTS, ETC

10. Modes of payments for exports in Nigeria.
11. Exporters to open Foreign Currency domiciliary accounts.

PART IV. ADMINISTRATION

14. Establishments, etc. of Special Account by the Central Bank.
15. Technical Committee to assist Central Bank.
16. Saving of pre-shipment duties of some departments, etc.
17. Modifications to existing legislations cap. 371 LFN.

PART V. MISCELLANEOUS

18. Offences and penalties for unlawful exportation.
20. Prosecution and trial of offences.
21. Power of Central Bank to compound proceedings, etc. Cap. 62 LFN.
22. Power to issue directives.
23. Annual Reports.
25. Interpretations.
26. Citation.

PRE-SHIPMENT INSPECTION OF EXPORT ACT 1996

An Act to make provision for the inspection of goods in Nigeria prior to their shipment to a place outside Nigeria.

[No. 10 of 1996] Commencement [19th April 1996]

PART I

Pre-shipment inspection of exports, etc.

1. Pre-shipment inspection of goods
   (1) As from the commencement of this Act, no goods to which this Act applies shall be exported from Nigeria unless an inspecting agent appointed pursuant to section 12 this Act has issued in respect of the goods a clean Certificate of inspection to the overseas buyers of the goods.
   (2) For the avoidance of doubt, no agency or department of any Government of the Federal Republic of Nigeria shall as from the commencement of this Act issue Clean Certificate of findings in respect of the goods to
which this Act applies except the inspecting agent appointed pursuant to section 12 of this Act.

(3) Any person intending to export any goods to which this Act applies shall, prior to the shipment of those goods from Nigeria.
   (a) complete and furnish his bank with such number of copies of the prescribed form as may specified in guidelines issued pursuant to this Act; and
   (b) provide such additional information as may be required, from time to time, by the bank and any appropriate agency of the Federal Government.

(4) To facilitate the carrying out of the duties imposed on an inspecting agent by or pursuant to this Act, the exporter shall, in addition to the requirements referred to in subsection (3) of this section, ensure that:
   (a) the inspecting agent is given not less than ten days notice prior to the proposed date of the pre-shipment inspection;
   (b) the inspecting agent is provided with a copy of the pro-forma in invoice, indent, purchase order, price list, letter of credit, contract agreement and any other document relevant to the transaction and which he inspecting agent may consider necessary for the proper carrying out of the pre-shipment inspection;
   (c) the inspecting agent is provided with all necessary facilities to enable the inspecting agent to early out quality and quantity inspections, price comparison and other processes as may be required in the circumstances;
   (d) all necessary arrangements are made for the handling, presentation, including unpacking and repacking, sampling shop testing and any other thing required to be done in connection with the inspection;
   (e) the inspecting agent is provided with a copy of final invoice covering the goods; and
   (f) he complies with such other conditions as may be prescribed.

(5) The goods which are type to pre-shipment inspection by an inspecting agent and type of pre-shipment to which some goods or categories of goods shall be subject are as set out in section 2, 4, 5, and 6 of this Act.

(6) For the purposes of this section and other provisions of this Act “Pre-shipment inspection” means inspection of goods in Nigeria prior to the shipment of those outside Nigeria.

2. Goods liable to pre-shipment inspection
Subject to the exceptions and qualifications specified in section 3 of this Act, all oil and non-oil goods are liable to pre-shipment inspection by an inspecting agent with respect to their quality, quantity and price comparison.

3. The goods listed in the export Prohibition list set out in Schedule 6 to the Customs, Excise, etc.
Tariff Act 1995, objects of art, explosives and pyrotechnic products, arms ammunition, weapons, implements of war, animals, household and other non-commercial products, including:
   (a) gifts sample personal effects;
   (b) trade samples and printed business matters;
   (c) machinery and equipment being shipped out of Nigeria for repairs and returned;
   (d) return of empty containers;
   (e) transshipments;
   (f) such other goods as may be prescribed, are hereby exempted from pre-shipments inspection.

4. Inspection of second-hand goods
Where the inspecting agent inspects second-hand goods, the conclusion drawn regarding quality, condition and valuation shall only be approximate.

5. Inspection of chemical-based goods
The inspecting agent shall, with respect to dyestuffs, paints, insecticides, special chemicals cosmetics wines (other than in bulk), spirit and similar goods restrict its pre-shipment inspection to quantity inspection of the goods and not to the quality inspection of the goods.
   (2) In this section “special chemicals” means any product not included under cosmetics, paints, insecticides, and which:
      (a) is not used in any pharmaceutical preparations;
      (b) is unique in that it is produced by a specific manufacturer; and
      (c) has a formula that is covered by a brand name or is confidential.

6. Inspection of pharmaceutical products
The inspecting agent shall, with respect to the inspection of pharmaceutical products, restrict its pre-shipment inspection to:
   (a) the inspection of the expiry date;
   (b) cost of the products to be exported; and
   (c) ensuring that the products conform with the active ingredients and chemical requirements specified
7. **Issuance Provisional Certificate of Inspection**
   (1) The inspecting agent shall, on receipt of the documents and particulars referred to in subsections (2) and (3) of section 1 of this Act:
   (a) scrutinize the documents and particulars; and
   (b) immediately thereafter, conduct an initial examination of the Goods prior to their being loaded into containers and carries at the port.

   (2) The inspecting agent shall, if satisfied with the documents and particulars and the examination specified in subsection (1) of this section issue to the exporter a document to be known as a Provision Certificate of inspection.

8. **Issuance of Certificate of Inspection**
   (1) Upon inspecting and loading of the goods into containers and carriers prior to shipment, the inspecting agent shall, if —
   (a) satisfied that the requirements as to quality, quantity and price of the goods have been complied with issue to the exporter a document to be known as a Certificate of Inspection;
   (b) not satisfied that the requirements specified in paragraph (a) of this subsection have been complied with, issue to the exporter a document to be known as a Non-negotiable certificate of Inspection, in respect of the goods.

   (2) Where the exporter subsequent to the issuance of a non-negotiable Certificate of inspection makes necessary adjustment as to the quantity or price of the goods, as the case may be, the inspecting agent may issue a Clean Certificate of Inspection in respect of the goods concerned.

   (3) Where goods are sold on international contracts requiring settlements to be based upon the discharged quantity and quality, the inspecting agent, where necessary, shall attend at the overseas port of discharge to certify the quantity of the goods and repatriable proceeds.

9. **Distribution of Copies of Certificate of Inspection**
   The inspecting agent shall, on issuing a Clean Certificate of Inspection in respect of goods pursuant to this Act, send an original copy each of the Clean Certificate of inspection to —
   (a) the Federal Ministry of Finance;
   (b) the Nigeria Customs Service;
   (c) the Nigerian Ports Plc.;
   (d) the exporter;
   (e) the exporter’s bank, onward transmission to the buyer’s bank overseas; and
   (f) the Central Bank of Nigeria.

   (2) A copy of the Clean Certificate of Inspection issued by the inspecting agent under this Act shall be attached by the exporter to all relevant shipping documents and carriers of the good in question to deliver the said documents including the original bill of lading issued in respect of the goods to the collecting or negotiating bank specified in the prescribed form referred to under subsection 1 (3) of this Act.

   (3) The inspecting agent shall also furnish reports, on weekly basis, giving details of all successfully executed pre-shipment inspections, to —
   (a) the Federal Ministry of Finance;
   (b) the Federal Ministry of Commerce; and
   (c) the Central Bank.

   (4) For the avoidance of doubt, no payment shall be made to the credit of any person in respect of goods liable to pre-shipment inspection which are exported outside Nigeria, unless a Certificate of Inspection in respect of those goods is presented together with the shipping documents.

PART III

**Payment For Exports, etc**

10. **Modes of payments for exports in Nigeria**
    As from the commencement of this Act, it shall be unlawful for payments to be made for the exports covered by this Act except by means Letters of Credit or other approved international mode of payments.

11. **Exporters to open Foreign Currency domiciliary accounts**
    An exporter of goods, including petroleum products, shall open, maintain and operate a foreign currency
domiciliary accounts in Nigeria into which shall be paid all exports proceeds corresponding to the entire proceeds of the exports concerned.

Part IV
Administration

12. Appointment of inspecting agents
   (1) The President shall appoint such number of companies as inspecting pursuant to this Act.
   (2) In the exercise of the power to appoint an inspecting agent pursuant to subsection (1) of this section, the President may appoint an inspecting agent to cover a specified geographical location.
   (3) Subject to the provisions of section 16 of this Act, nothing in subsections (1) and (2) of this section shall be construed as preventing pre-shipment inspection pursuant to this Act of any goods (whether or not goods of a description mentioned in this Act) by any department of agency of the Government of the Federation or of a State or any statutory body (corporate or unincorporated) established by that Government or by any exporter or his authorized agent.

13. General administration of this Act
   (1) The Central Bank shall be charged generally with the responsibility for the administration of the provisions of this Act.

14. Establishments etc. of Special Account by the Central Bank
   (1) There shall be established and maintained at the Central Bank a special Account for the purpose of this Act.
   (2) There shall be paid and credited into the Special account established pursuant to subsection (1) of this section the levies payable by exporters of goods on all oil and non-oil exports as may approved in guidelines issued pursuant to this Act by the Federal Government, from time to time.
   (3) All expenses relating to the remuneration, fees and other charges payable to the inspecting agents shall be defrayed from the Special account.
   (4) Any balance remaining in the Special after making the payments referred to in subsections (3) of this section shall be used to fund the pre-shipment inspection programme established pursuant to this Act.

15. Technical Committee to assist Central Bank
   (1) The Technical Committee (hereinafter referred to as “the Technical Committee”) established under the Pre-shipment Inspection of Impo4s Act 1996 shall assist the central Bank in the discharge of its function under this Act.

[Cap. P26]

   (2) For the purpose of this Act, the Technical Committee shall comprise a representative each of the following, that is—
   (a) the Central Bank;
   (b) the Federal Ministry of Finance;
   (c) the Federal Ministry of Commance;
   (d) the Federal Ministry of Industries;
   (e) the Ministry of Petroleum Resources (Inspectorate Division);
   (f) the Federal Ministry of Agriculture;
   (g) the Nigeria Customs Service; and
   (h) the National Agency for Food and Drug Administration and Control;
   (3) The Technical committee shall for the purpose of this Act make standing orders regulating its meetings and the frequency of such meetings.
   (4) The quorum of the meetings of the Technical Committee shall be five.

16. Saving of pre-shipment duties of some departments, etc
   (1) Without prejudice to the duty imposed on the inspecting agent to take responsibility for all pre-shipment inspections carried out pursuant to this Act the following departments and agencies of the Government of the Federation, that to say:
   (a) the Inspectorate Division of the Ministry of Petroleum Resources;
   (b) the Quarantine Division of the Federal Ministry of Agriculture and Rural Development;
   (c) the Standard Organization of Nigeria; and
   (d) the National Agency for Food and Drug Administration and Control shall continue to carry out the specific pre-shipment inspection functions which had hitherto been carried out by those departments and agencies prior to the coming into force of this Act except that the responsibility
for the issuance of the Clean Certificate of Inspection provide for under this Act shall be vested only in the inspecting agent appointed under section 12 of this Act.

(2) The functions conferred on the Produce Inspection Officers under the Produce (Enforcement of Exports Standards) Act and the rules, regulations and directions issued thereunder shall as from the commencement of this Act to the following, that is:—
(a) the carrying out of pest control and fumigation at the ports of shipment; and
(b) ensuring that the material used for packing of goods for export are of good quality.

(3) In addition to the specific functions conferred under subsection (2) of this section, the Weights and Measures Division of the Federal Ministry of Commerce shall continued to carry out functions relating to the calibrations of crude oil prior to the export thereof in collaboration with the inspecting agents appointed under section 12 of this Act.

17. Modifications to existing legislations
(1) The provisions of any existing law or enactment conferring pre-shipment inspection functions on the departments and agencies referred to in section 16 subsection (1), (2) and (3) of this Act shall be read with such modifications so as to bring them into conformity with the provisions of this Act.

(2) Where any other law or enactment including the laws referred to in subsection (1) of this section are inconsistent with the provisions of this Act, the provisions of this Act shall prevail and that other law shall, to the extent of such in consistency, be void.

PART V
Miscellaneous

18. Offences and penalties for unlawful exportation
(1) Any person who, at anytime after the commencement of this Act, Knowingly ports goods liable to pre-shipment inspection under this Act otherwise than in compliance with the provisions of this Act is guilty of an offence under this Act.

(2) Any person found guilty of an offence under this Act is liable on conviction:
(a) in the case of an individual, to a fine of ₦50,000 or the value of the goods, whichever is higher, or to imprisonment for a term of not more than twelve months or to both such fine and imprisonment; and
(b) in the case of a body corporate, to a fine of ₦100,000 or twice the Value of goods, whichever is higher.

(3) Where an offence under this section is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer, servant or agent of the body corporate (or any person purporting to act in such capacity), that person as well as the body corporate shall be deemed to be guilty of the offense and may be proceeded against and punished in the same manner as an individual under paragraph (a) of subsection (1) of this section.

(4) For the purposes of subsection (2) of this section, “value” means the amount stated on the face of the document or documents to the transaction in question and, where this is not expressed in Nigeria currency, its equivalent in Nigerian currency, however, that nothing in this subsection shall be construed as precluding proof of value by any other method or means permitted by any enactment or law (including rules of law).

(5) Notwithstanding the other provisions of this section, it shall be defiance to an offence under this section for the person charged with the offence, including—
(a) the exporter of goods in respect of which the offence has been committed;
(b) any consignee or endorse for valuable consideration of any bill of lading or any appropriate document representing goods to have been shipped from Nigeria; and
(c) any other person who in the normal course of his duties handles exported goods, to prove that the goods in question were exported default on his part or by fraud or negligence of the exporter or of any other person.

19. Proof of certain document
(1) Without prejudice to any other mode of proof, if in any proceedings taken before a court under this Act any book or document in the official custody of the Central Bank or the proper officer is required to be used as evidence as to the transactions to which it relates, copies therefore or extracts thereof certified by the Central Bank or proper officer shall be admissible for that purpose, without production of the original.

(2) In any proceedings under this Act, documents issued pursuant to or in connection to its provisions and copies of official documents purporting to be certified under the and seal or stamp of the principal officers of the inspecting agent or any of its principal representatives in Nigeria or abroad shall be
sufficient evidence of the matters stated therein unless the contrary is proved.

20. **Prosecution and trial of offences**
(1) The prosecution of offences under this Act shall be at the instance of the Attorney-General of the Federation or by such other officer as the Attorney-General may authorize so to do.

(2) The question as to whether any authority has been given in pursuance of subsection (1) of this section or what the authority was shall not enquired into by any person except at the instance of the Attorney-General.

(3) Every proceedings under this Act shall, subject to the applicable procedure, be commenced in the Federal High Court and reference in this Act to “court” shall be construed accordingly.

21. **Power of Central Bank to compound proceedings, etc**
(1) Subject to subsection (2) of this section, the Central Bank may-

(a). without prejudice to the provisions of section 174 of the Constitution of the Federal Republic of Nigeria 1979, as amended, which relates to the power of the Attorney-General of the Federation to institute, continue or discontinue criminal proceedings against any person in any court of law, stay or compound any proceedings for an offence or for the forfeiture of any goods under the provisions of this Act; or

(b). subject to the approval of the Minister, restore any goods forfeited pursuant to the provisions of this Act.

(2) The powers conferred on the Central Bank under this section shall be exercised so as not to defeat the objects of this Act.

22. **Power to issue directives**
The Minister may give directives and issue such guidelines as may be required, from time to time for carrying into effect the objectives of this Act.

23. **Annual Reports**
(1) The Technical Committee shall, not later than fifteen months after the commencement of this Act and thereafter at intervals of twelve months, prepare and submit, to the Minister, a report on the operation of the pre-shipment inspection scheme during the immediate proceeding year.

(2) The Minister shall lay each report submitted to him under this section before the President.

24. **Contractual Obligations of exporters not affected by Act**
Nothing in this Act shall be construed as relieving any exporter of his contractual obligations to the overseas importer of any goods liable to pre-shipment inspection or of any other goods.

25. **Interpretations**
(1) In this Act, unless the context otherwise requires:—


“inspecting agent” means an inspecting agent appointed under section 12 of the Act;

“Minister” means the Minister charged with the responsibility for matters relating to finance;

“exporter” includes any supplier or seller of goods in Nigeria;

“oil exports” includes crude oil and petroleum products;

“prescribed” means prescribed by the Minister by order published in the Gazette;

“pre-shipment inspection” means inspection of goods in Nigeria prior to shipment of those goods outside Nigeria as provided in this Act;

“Technical Committee” means the Technical Committee referred to in section 15 of this Act; and

“shipment” means transfer of goods by sea, air, road, rail or any other means whatsoever and “shipped” shall be construed accordingly.

26. **Short Title**
This Act may be cited as the Pre-shipment Inspection of Exports Act.
PRE-SHIPMENT INSPECTION OIL IMPORTS ACT 1996

ARRANGEMENT OF SECTIONS

PART I

Pre-shipment inspection of imports

SECTION

1. All imported goods liable to mandatory pre-shipment inspection.
2. Issuance or Clean Report or Findings and Import Duty Report.
3. Fees and Duties payable by importers.

PART II

Administration

5. General Administration.

Miscellaneous and supplementary

7. Penalties for unlawful importation.
11. Regulations.
12. Annual reports.
13. Mandatory inscription or Hologram of Import Duty Report number of goods.
15. Interpretation.

SCHEDULE

Particulars to be supplied to the Central Bank by all importers

PRE-SHIPMENT INSPECTION OIL IMPORTS ACT 1996

An Act to provide for pre-shipment inspection of imports, and for matters connected therewith.

[No. 11 of 1996]

Commencement [19th April, 1996]

PART I

Pre-shipment inspection of imports

1. All imported goods liable to mandatory pre-shipment inspection

(1) As from the commencement of this Act, no goods to which this Act applies—
(a) Whether containerised or not and irrespective of value and personal effects (excluding such personal effects which are accompanied and subject to 100 per cent inspection at destination); and
(b) whether re-exported into Nigeria from any neighbouring country, shall be imported into Nigeria unless accompanied by a Clean Report of Findings and an Import Duty Report issued in respect of such goods to the overseas sellers of the goods by the inspecting agent referred to in section 4 of this Act.

(2) For the purposes of subsection (1) of this section, any person intending to import any goods to which this Act applies shall, before shipment of such goods to Nigeria; furnish the Central Bank with the particulars specified in the Schedule to this Act together with such additional information as the Central Bank may require.
Bank may specify from time to time and, for this purpose, the Central Bank may issue such forms as it thinks appropriate for the use of importers, except for personal effects which shall however be imported under zero duty as certified by the inspecting client.

[Schedule.]

(3) The importer, of the goods shall instruct the overseas seller of such goods to give the inspecting authority full access thereto in order to facilitate the carrying out of the functions imposed on the inspecting agent by or pursuant to this Act and in particular, the following stipulations shall be contained in such instructions, that is:—

(a) that the seller shall give between seven to ten days’ notice to the inspecting agent prior to the proposed date of the pre-shipment inspection;
(b) with respect to the carrying out of the pre-shipment inspection, that the seller shall provide the inspecting agent with copies of the required Form 'M', pro forma invoice, indent, purchase order, price list, letter of credit, contract agreement and any other document relevant to the transaction which the inspecting agent may consider necessary for the proper carrying out of the inspection;
(c) that the seller shall provide all necessary facilities to the inspecting agent to enable it carry out quality and quantity inspection and price comparison and to conduct all such tests, analysis and other processes as may be required in the circumstances;
(d) that the seller shall make all necessary arrangements for the handling, presentation (including unpacking and repacking), sampling, shop-testing and any other thing required in connection with the inspection of the goods;
(e) that the seller shall submit to the inspecting agent a copy of the final invoice covering the goods;
(f) that the seller shall comply with such other conditions as may be prescribed.

(4) The goods which shall be liable to inspection outside Nigeria by the inspecting agent before shipment of such goods to Nigeria and the type of inspection to which any such goods or categories thereof shall be subject are as specified in the following provisions of this section and the expression, “pre-shipment inspection” wherever used in this Act shall be construed accordingly.

(5) Goods liable to pre-shipment inspection with respect to quality and quantity and price comparison thereof are all goods other than goods of the following descriptions, that is:—

(a) Explosives and pyrotechnic products, arms and ammunition, weapons and implements of war;
(b) Supplies to diplomatic consulate missions and international organisations for their own needs; and
(c) Such other goods as may be prescribed by the Federal Government of Nigeria from time to time.

(6) The expenses incurred by the inspecting agent pursuant to paragraph (d) of subsection (3) of this section shall be borne by the overseas seller of the good concerned.

2. Issuance of clean report of findings and import duty report

(1) Where, after inspecting the goods, the inspecting agent is satisfied that all requirements as to quality and quantity and price of the goods have been complied with, the inspecting agent shall issue the overseas seller of such goods documents to be known as a “Clean Report of Findings” and “Import Duty Report” and where the inspecting agent is not so satisfied, it shall issue a document to be known as “Non-negotiable Report of Findings” in respect of the goods.

(2) Where the seller, subsequent to the issuance of a Non-negotiable Report of Findings, makes the necessary adjustments, the inspecting agent may issue a Clean Report of Findings and Import Duty Report in respect of the goods concerned.

(3) Every Clean Report of Findings and Import Duty Report issued under this Act shall be attached by the seller to all the relevant shipping documents.

3. Fees and duties payable by importers

(1) All importers shall pay into a special account designated for that purpose in the Central Bank, fees calculated as 1 per cent ad valorem of the FOB value of imports assessed by the inspecting agent or such per centum of the FOB value of goods inspected as may be prescribed by the Federal Government of Nigeria from time to time, based on the exchange rate prevailing at the previous week of inspection as determined by the Central Bank.

(2) All duties assessed as payable by the importers in respect of goods inspected by the inspecting agent shall be payable by the importers in accordance with procedures contained in the applicable guidelines' as may be issued by Federal Government of Nigeria, required and shall be based on the average autonomous rate
of exchange of the previous week as determined by the Central Bank.

Part II
Administration

4. Appointment of inspecting agents
   (1) The President shall appoint such number of bodies corporate as inspecting agents to carry out any pre-
       shipment inspection required by or pursuant to this Act.
   (2) In the exercise of the power to appoint an inspecting agent pursuant to subsection (1) of this section, the
       President may appoint an inspecting agent to cover specific country or countries or group of countries
       within a specified geographical location.
   (3) Nothing in subsection (1) or (2) of this section shall be construed as preventing pre-shipment inspection
       pursuant to this Act of any goods (whether or not goods of a description mentioned in this Act) by any
       department or agency of the government of the Federation or of a State or any statutory body (corporate
       or none-corporate) established by any such government or any accredited representative of any such
       government or by any importer or his authorised agent.

5. General Administration
   (1) The Central Bank shall be charged generally with the responsibility of the administration of the
       provisions of this Act.
   (2) For the purposes of assisting the Central Bank in the discharge of its functions under this Act, there
       shall be established by the Minister, a Technical Committee comprising a representative of the Central
       Bank as Chairman thereof and a representative of each of the following, that is:—
       (3) the Federal Ministry of Finance;
       (4) the Federal Ministry of Industries;
       (5) the Federal Ministry of Trade and Tourism; and
       (6) the Board of Customs and Excise.

6. Proceedings of the Technical Committee
   (1) The Technical Committee shall meet not less than four times in each year and on such other occasions
       as it may consider necessary.
   (2) At any meeting of the Technical Committee, the Chairman shall preside.
   (3) The quorum for meetings of the Technical Committee shall be the Chairman and two other members.
   (4) The Technical Committee shall have power to regulate its proceedings and may make standing orders
       for that purpose and, subject to such standing orders, may function notwithstanding any vacancy in its
       membership or the absence of any member.
   (5) Where the Technical Committee desires to obtain the advice of any person on a particular matter, it
       may co-opt him as a member for such period as it thinks fit; but a person who is a member by virtue
       of this subsection shall not be entitled to vote at any meeting of the Technical Committee and shall not
       count towards a quorum.
   (6) There shall be a Secretary to the Technical Committee who shall be an official of the Central Bank
       designated as such and the secretariat of the Committee shall be located in the Central Bank.

Miscellaneous and supplementary

7. Penalties for unlawful importation
   (1) Any person who, at any time after the commencement of this Act, knowingly imports any goods liable
       under this Act to pre-shipment inspection otherwise than in compliance with the provisions of this Act,
       is guilty of an offence under this Act.
   (2) Imports not accompanied with the relevant Import Duty Report are henceforth liable to be confiscated
       upon arrival in Nigerian territorial waters and the shippers responsible for transporting the goods into
       Nigeria shall upon conviction in a court of competent jurisdiction be liable to payment of fines not
       exceeding the value of the goods impounded.
   (3) Any person guilty of an offence under this Act shall be liable upon conviction—
       (a) In the case of an individual, a fine of ₦50,000 or the value of the goods, whichever is higher,
           or to imprisonment for a term not more than twelve months or to both such fine and
           imprisonment; and
(b) in the case of a body corporate, to a fine of N100,000 or twice the value of goods, whichever is higher.

(4) In addition to the penalties prescribed in subsection (3) of this section, the goods in respect of which the offence was committed shall be forfeited to the Federal Government of Nigeria.

(5) Where an offence under this section is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, secretary or other similar officer, servant or agent of the body corporate (or any person purporting to act in such capacity), he as well as the body corporate, shall be deemed to be guilty of the offence and may be proceeded against and punished in the same manner as an individual under subsection (3) (a) of this section.

(6) For the purposes of subsection (2) of this section, ‘value’ means the amount stated on the face of the document or documents relating to the transaction in question and, where this is not expressed in Nigerian currency, its equivalent in Nigerian currency:

Provided that nothing in this subsection shall be construed as precluding proof of value by any other method or means permitted by any other enactment or law (including rules of law).

(7) Notwithstanding the other provisions of this section, any person charged with an offence under this section, including:

(a) the importer of goods in respect of which the offence has been committed; or
(b) any consignee or endorsee for valuable consideration of any bill of lading or any other appropriate document representing goods to have been shipped to Nigeria; or
(c) any other person who in the normal course of his duties handles imported goods,

may exonerate himself by showing that the goods in question were shipped without any default on his part or by the fraud or negligence of the overseas seller or of any other person.

8. **Proof of certain documents**

(1) Without prejudice to any other mode of proof, if in any proceedings taken before a court under this Act any book or document in the official custody of the Central Bank or of any public officer is required to be used as evidence as to the transactions to which it relates, copies thereof or extracts therefrom certified by the Central Bank or the proper officer shall be admissible for that purpose without production of the original.

(2) In any proceedings under this Act, a document issued pursuant to or in connection to its provisions and copies of official documents purporting to be certified under the hand, seal or stamp of the principal officers of the inspecting agent in any foreign country or of any of their principal representatives of Nigeria abroad shall be sufficient evidence of the matters stated therein unless the contrary is proved.

9. **Persecution and trial of offences**

(1) The prosecution of offences under this Act shall be at the instance of the Attorney-General of the Federation or by such other officer as the Attorney-General may authorise so to do:

Provided that the question whether any authority has been given in pursuance of this subsection or what the authority was shall not be enquired into by any person except at the instance of the Attorney-General.

(2) Every proceeding under this Act shall, subject to the applicable procedure, be commenced in the Federal High Court and references in this Act to “Court” shall be construed accordingly.

10. **Power of the Central Bank to Compound proceedings.**

(1) Subject to subsection (2) of this section, the Central Bank may:

(a) without prejudice to the provisions of section 160 of the Constitution of the Federal Republic of Nigeria 1979 as amended, (which relate to the power of the Attorney-General of the Federation to institute, continue or discontinue criminal proceedings against any person in any court of law), stay or compound any proceedings for an offence or for the forfeiture of any goods under the provisions of this Act; or

(b) Subject to the approval of the Minister, restore any goods forfeited pursuant to the provisions of this Act.

(2) The powers conferred on the Central Bank under this section shall be exercised so as not to defeat the objects of this Act.
11. Regulations
The Minister may make such regulations as may be required, from time to time, for carrying into effect the objects of this Act.

12. Annual reports
(23) The Technical Committee shall, not later than fifteen months after the coming into operation of this Act and thereafter at intervals of twelve months each, prepare and submit, to the Minister, a report on the operation of the scheme during the immediately preceding year.

(24) The Minister shall cause each report submitted to him under this section to be laid before the Federal Executive Council.

13. Mandatory inscription of Hologram of Import Duty Report number of goods
All goods inspected whether containerised or not and for which Import Duty Report are required shall have pasted thereon the Hologram Mark issued by the pre-shipment inspection agents to conform with the Import Duty Report numbering of such goods.

(1) The Pre-shipment Inspection of Imports Act is hereby consequentially repealed.
[Cap. 363, L.F.N. 1990.]

(2) Nothing in this Act shall be construed to prohibit the continuation of an inspection by an inspection agent appointed under the enactment repealed by subsection (1) of this section, or begun before the commencement of this Act so however that such inspection shall be subject to payment of fees and duties in accordance with the provisions of section 3 of this Act.

(3) Funds, accounts and records constituted under this shall be deemed to be in continuation of the corresponding funds, accounts and records constituted under the enactment repealed by this Act.

(4) Where any offence, being an offence for the continuance of which penalty was provided, has been committed under the enactment repealed by this Act; proceedings may be taken under this Act in respect of the continuance of the offence after the commencement of this Act, in the same manner as if the offence had been committed under the corresponding provisions of this Act.

(5) The Minister, if he deems fit, may, within twelve months after the commencement of this Act, by order published in the Gazette, make additional transitional or savings provisions for the better carrying out of the objectives of this section.

15. Interpretation
(1) In this Act, unless the context otherwise requires
“Central bank” means the Central Bank of Nigeria established under the Central Bank of Nigeria Act 1991;
“inspecting agent” has the meaning assigned thereto by section 4 of this Act;
“Minister” means the Minister charged with responsibility for matters relating to finance;
“overseas seller” or “seller” includes any supplier of goods abroad or exporter;
“prescribed” means prescribed by the Minister by order published in the Federal Gazette;
“pre-shipment inspection” means inspection of goods in foreign countries prior to shipment thereof to Nigeria as provided in this Act;
“shipment” means transfer of goods by sea, air, road, rail or any other means whatsoever and “shipper” shall be construed accordingly;
“Technical Committee” means the Technical Committee established by section 6 of this Act.

(2) Nothing in this Act shall be construed as relieving any overseas seller of his contractual obligations to the importer of any goods liable to pre-shipment inspection or of any other goods.

16. Short Title
This Act may be cited as the Pre-shipment Inspection of Imports Act.
SCHEDULE
[Section 1 (2)]

Particulars to be supplied to the Central Bank by all importers

1. Name and address of 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An Act to repeal the Gulf Oil Company Training Fund (Administration) Act 1964; and to establish the Petroleum Technology Development Fund for the purposes of training and education of Nigerians in the petroleum industry.

1. **Establishment of the Petroleum Technology Development Fund**
   There is hereby established a fund to be known as the Petroleum Technology Fund (in this Act hereafter referred to as “the fund”) into which shall be paid moneys comprising the following that is to say—
   (a) the balance of monetary assets outstanding in the accounts of the Gulf Oil Company Training Fund at the commencement of this Act;
   (b) all further sums payable to or received by the Minister of Mines, Power and Steel in terms of any agreement made by the Government and any company in relation to petroleum oil prospecting or mining concessions; and
   (c) any other sums from time to time freely donated or accruing to the Government or the fund for the training and education of Nigerians in the petroleum industry as the Minister may direct.

   and moneys in the said fund together with interest (if any) payable in respect thereof shall be applied for the purposes specified in section 2 of this Act.

2. **Purposes of the Fund**
   The fund shall be available for the purposes of training Nigerians to qualify as graduates, professionals, technicians and craftsmen, in the fields of engineering, geology, science and management in the petroleum industry in Nigeria or abroad; and in particular; and without prejudice to the generality of the particular, the fund shall be utilised as follows—
   (a) to provide scholarships and bursaries, wholly or partially in universities, colleges, institutions, and in petroleum undertakings in Nigeria or abroad;
   (b) to maintain, supplement, or subsidise such training or education as specified in paragraph (a) of this section;
   (c) to make suitable endowment to faculties in Nigerian universities, colleges, or institutions approved by the Minister;
   (d) to make available suitable books and training equipment in the institution specified in paragraph (c) of this section;
   (e) for sponsoring regular or as necessary visits to oil fields, refineries, petro-chemical plants, and for arranging any necessary attachments of personnel to establishments connected with the development of the petroleum industry; and
   (f) for financing of and participation in seminars and conferences which are connected with the petroleum industry in Nigeria or abroad.

3. **Disbursements from the Fund**
   Disbursements from the fund shall be applied in accordance with rules made under section 23 of the Finance (Control and Management) Act. (Cap F26)

4. **Short Title Interpretation and Repeal**
   (1) This Act may be cited as the Petroleum Technology Development Fund Act.
   (2) In this Act, “the government” means the Government of the Federation.
   (3) The Gulf Oil Company Training Fund (Administration) Act 1964 is hereby repealed. 1964 No 32.
PETROLEUM TRAINING INSTITUTE ACT 1972

ARRANGEMENT OF SECTIONS

PART I

General Establishment of the Petroleum Training Institute

SECTION

   Establishment, etc., of the Council of the Institute

2. Establishment and constitution of the Council, etc.
   Functions and powers of the Council

4. Power of the Institute to enter into contracts, to hold property and to invest.
   Supplementary provisions

5. Secretary to the Council.
6. Appointment of the principal and other staff.
7. Removal from office of members of the Council, etc.
8. Discipline of students.

PART II

Financial provisions

9. Annual budget and estimates etc.
10 Revenue of the Institute.
11. Donations for particular purposes.
12. Payment into bank.

PART III

Miscellaneous

14. Quorum and procedure of bodies established by this Act.
15. Interpretation.

SCHEDULE

Supplementary provisions relating to the Council

PETROLEUM TRAINING INSTITUTE ACT 1972

An Act to establish the Petroleum Training Institute to provide courses of instruction, training and research in petroleum technology and to produce technician and other skilled personnel required to run the petroleum industry.

[1972 No. 37]

Commencement [19th September, 1972]

PART I

General

Establishment of the Petroleum Training Institute

1. Establishment and Function of the Petroleum Training Institute
   (1) There shall be established an Institute by the name of the Petroleum Training Institute (in this Act referred to as “the Institute”) which shall be a body corporate with perpetual succession and a common seal.
(2) The functions of the Institute shall be—

(a) to provide courses of instruction, training and research in oil technology and to produce technicians and such skilled personnel normally required for oil production;

(b) to arrange conferences, seminars and study groups relative to the field of learning specified in paragraph (a) of this subsection; and

(c) to perform such other functions as in the opinion of the council may serve to promote the objective of the Institute, including, without prejudice to the generality of the foregoing, the making of such regulation as may be necessary for entry into and type of courses approved by the Institute, the duration of such courses and their academic standards, and the recognised equivalents of such certificates and diplomas that the Institute may award.

Establishment etc., of the Council of the Institute

2. Establishment and constitution of the Council, etc.

1) There shall be established a body to be known as the Council of the Petroleum Training Institute (in this Act referred to as “the Council”).

2) The Council shall consist of the following members—

(a) the Director of Petroleum Resources, who shall be the Chairman;

(b) one person appointed by the Permanent Secretary to represent the Federal Ministry of Mines, Power and Steel;

(c) one person appointed by the Permanent Secretary to represent the Federal Ministry of Finance;

(d) the Federal Adviser on Technical Education;

(e) the Principal of the Institute;

(f) two persons appointed by the Minister to represent the Nigerian National Petroleum Corporation;

(g) one person appointed by the Minister to represent the Nigerian Mining, Geological and Metallurgical Society; and

(h) one person appointed by the Minister to represent the interest of other bodies (excluding the Nigerian National Petroleum Corporation) engaged in oil industry in Nigeria.

3) The provisions set out in the Schedule to this Act shall apply in relation to the constitution of the Council and as the other matters therein specified.

[Schedule]

4) The Minister may by order published in the Federal Gazette amend the provisions of the Schedule to this Act, and such provisions shall have effect, as amended.

Functions and powers of the Council

3. General functions of the Council

Subject to the provisions of the Act, the Council shall be the governing body of the Institute and shall have the general management of the affairs of the Institute, and in particular, the control of the property and the finances of the Institute, and shall also have power to do anything which in its opinion is calculated to facilitate the carrying out of the functions of the Institute under this Act.

4. Power of the Institute to enter into contracts, to hold property and to invest

(1) The Institute may enter into such contracts as may be necessary or expedient for carrying into effect the provisions of this Act.

(2) The Institute may acquire and hold such movable or immovable property as may be necessary or expedient for carrying into effect the provisions of this Act, and for the same purpose may sell, lease, mortgage, or otherwise alienate or dispose of any property so acquired.

(3) Subject to section 11 (1) of this Act, the Institute may invest its funds in such manner and so such extent as it may think necessary or expedient.

Supplementary provisions

5. Secretary to the Council

(1) The Registrar of the Institute shall be the Secretary to the Council and shall attend all meetings of the council and its committees.

(2) In the absence of the Registrar, the Chairman of the Council may, after consultation with the Principal, appoint a suitable person to act as Secretary for any particular meeting.

(3) The Secretary to the Council or a person appointed under subsection (2) of this section shall not be
entitled to vote on any question before the council unless he is so entitled as a member of the council.

6. **Appointment of the principal and other staff**
   (1) The Principal of the Institute, who shall be the Chief academic and administrative officer, shall be appointed by the council on such terms and conditions as it may think fit, and he shall have power to exercise general authority over the staff, and shall be responsible for the discipline of the Institute.

   (2) The Vice-Principal, Heads of Departments, the Registrar, and any other academic and senior administrative staff shall be appointed by the council on the recommendations of a committee appointed under paragraph (3) of the Schedule to this Act, to be known as the “Appointments committee”, which shall be charged by the Council with responsibility for the making of recommendations for the appointments of academic and senior administrative Staff.

   (3) The power to appoint other categories of staff shall be exercised by the Principal with the assistance of such committee as may be constituted by him for such purpose.

7. **Removal from office of members of the Council, etc.**
   (1) If it appears to the council that a member of the Council who is a member by virtue of section 2 (2) (f) or (g) of this Act should be removed from office on the ground of misconduct or inability to perform the functions of his office, the Council shall, after consultation with the interest represented by such member, make a recommendation to that effect to the Minister; and if the Minister approves the recommendation, he shall remove the member from the membership of the Council.

   (2) If it appears to the Council that the Principal, Vice-Principal or any other member of the academic or senior administrative staff of the Institute should be removed from office or employment on the ground of misconduct or inability to perform the functions of his office, the Council shall make a recommendation to that effect to the Minister and, if the Minister approves the recommendation, the Council shall remove the person concerned from his office or employment.

   (3) Nothing in subsection (2) of this section shall be constructed as precluding the Council from exercising disciplinary control (other than the power of removal from office or employment) in relation to the persons to whom that subsection applies; and in the operation of subsection (2) of this section, the Council; shall have power at any time to suspend the person concerned from his office or employment until the decision of the Minister on the recommendation made by the Council is known.

   (4) Other categories of staff shall for the purpose of disciplines be subject to the authority of the Principal, so however that no member of such staff (except members who are daily paid) shall be removed from office without the approval of the Council; and in exercise of his authority under this section, the Principal shall have power to appoint, in any case where he considers it appropriate so to do, a disciplinary panel of such number of members of the staff of the Institute as he may in his discretion determine for the purpose of advising him on any particular matter relating to discipline.

8. **Discipline of students**
   (1) Subject to the provisions of any by-law made under the provisions of section 13 of this Act, the Principal shall have power to exclude or suspend for such period as he may in his discretion determine any student from attending the Institute for any cause which the Principal considers adequate to warrant such action; and any such exclusion or suspension shall be reported to the Council so soon thereafter as may be convenient.

   (2) A student may, with the approval of the Council, be expelled by the Principal for misconduct.

**PART II**

*Financial provisions*

9. **Annual budget and estimates, etc.**
   (1) As soon as may be after the end of March in any year after the commencement of this Act, the Council shall cause to be prepared a statement of its income and expenditure during the previous financial year together with a statement of the assets and the liabilities of the Institute as at the last day of that financial year.

   (2) The statements referred to in subsection (1) of this section shall, when certified by the Principal, be audited by an independent firm of auditors appointed by the Council with the approval of the Minister, and shall be published within six months thereafter in the Federal Gazette.

   (3) The Council shall cause to be prepared not later than 1st December in any year estimates of revenue and expenditure for the ensuring financial year and when prepared they shall be submitted to the
Council for approval.

10. **Revenue of the Institute**
The revenue of the institute shall include—
(a) fees charged by and payable to the Institute in respect of students;
(b) any other amounts, charges or dues recoverable by the Institute;
(c) revenue from time to time accruing to the Institute by way of subvention, grants-in-aid, endowment or otherwise;
(d) interests on investments; and
(e) donations and legacies to the Institute from any source for the general or special purposes of the Institute.

11. **Donations for particular purposes**
(1) Donations of money to be applied for any particular purpose shall be placed to the credit of a special Reserve Account and may be invested in such security or other investments as may be approved by the Minister until such time as they may be expended in fulfilment of such purposes:

Provided that the Institute shall not be obliged to accept a donation for a particular purpose unless it approves of the terms and conditions attaching to such donation.

(2) The interest derived from the investments referred to in subsection (1) of this section, unless the terms of the donation otherwise require, shall be deemed to be revenue of the Institute.

12. **Payment into bank**
All sums of money received on account of the Institute shall be paid into such bank as may be approved by the Council for the credit of the Institute's general, current or deposit account:

Provided that the Council may invest, as it deems fit, any money not required for immediate use other than donations of money referred to in subsection (1) of section 11 of this Act.

**PART III**

**Miscellaneous**

13. **Powers to Make by-Laws**
(1) The council may, within the scope of its authority under this Act, make by-law relating to any internal and domestic matters placed by this Act under its control and superintendence other than matters for which provision is to be made by standing orders under paragraph 7 of the schedule or in pursuance of paragraph 8 of the said Schedule.

(2) All such by laws shall be in writing and shall come into force when sealed with the seal of the Institute, unless some other sate for commencement be therein prescribed.

(3) Nothing in subsection (2) of this section shall make it obligatory for the Council to publish any of the said by-laws in the Federal Gazette.

14. **Quorum and procedure of bodies established by this Act**
Subject to the provisions of this Act and any standing orders or by-laws made thereunder the quorum and procedure of any body of persons established by this Act shall be such as may be determined by that body.

15. **Interpretation**
In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—
“By-laws” means by-laws made under section 13 of this Act;
“Council” means the governing body of the Institute established under section 2 of this Act;
“Government” means the Government of the Federation;
“Institute” means the Petroleum Training Institute established under section 1 of this Act;
“Minister” means the Minister charged with responsibility for matters relating to petroleum;
“Property” includes rights, liabilities and obligations;
“Registrar” means the Registrar of the Institute;
“Staff” means all persons employed by the Council to serve at the Institute.

16. **Short Title**
This Act may be cited as the Petroleum Training Institute Act.
SCHEDULE
[Section 2 (3)]

Supplementary provisions relating to the Council

Terms of office of members
1. (1) A member of the Council who is a member by virtue of section 2 (2) (f) or (g) of this Act hold office for a period of three years beginning with the date on which he is appointed.

(2) A member of the council holding office as specified in subparagraph (1) of this paragraph may, by notice to the Council, resign his office.

(3) A person ceasing to hold office as a member of the Council otherwise than by removal for misconduct shall be eligible for reappointment.

2. (1) Where a vacancy occurs in the membership of the Council that vacancy shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his predecessor, so however that the successor shall represent the same interest as his predecessor.

(2) The Council may act notwithstanding any vacancy in its membership or the absence of any member.

Committees
3. (1) The Council may appoint one or more committees to which it may delegate any of its functions.

(2) No decision of a committee shall have effect unless confirmed by the Council.

Meetings of the Council
4. (1) The Council shall meet for the conduct of business at such times and places as the chairman may appoint but shall not meet less than twice in a year.

(2) The chairman may at any time, and shall at the request in writing of not less than four members of the Council, summon a meeting.

(3) Particulars of the business to be transacted at any meeting shall be circulated to members with the notice of the meeting.

Power to co-opt members
5. (1) Where the Council desires to obtain the advice of any person on any particular matter, it may co-opt such as a member for a meeting whether or not expressly convened for the purpose of considering the particular matter.

(2) Such member shall not be entitled to vote nor shall he count toward quorum.

Question how decided
6. (1) Every question put before the Council at a meeting shall be decided by a majority of the votes of the members present and voting.

(2) Four members shall form a quorum at any meeting of the Council.

(3) The chairman shall, at any meeting, have a vote and, in the case of an equality of votes, may exercise a casting vote.

Standing orders
7. Subject as aforesaid, the Council shall make standing orders with respect to the holding of meeting, the nature of notices to be given, the proceedings thereat, the keeping of minutes of such proceedings and the custody and production for inspection of such minutes.
Absence of the chairman

8. If the chairman is absent from a meeting of the Council the members present shall elect one of their number to act as Chairman for the purpose of that meeting.

Contracts and instruments

9. (1) Any contract or instrument which if entered into or executed by a person not being a body corporate would not be required to be under seal may in like manner be entered into or executed on behalf of the Institute by any person generally or specifically authorised by it for that purpose.

(2) Any members of the Council or of a committee thereof, who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Council or a committee thereof, shall forthwith disclose his interest to the Council and shall not vote on any question relating to such contract or arrangement.

Seal of the Institute

10. (1) The common seal of the Institute shall not be used or affixed to any document except in pursuance of a resolution duly passed at a properly constituted meeting of the Council and recorded in the minutes of such meeting.

(2) The fixing of the seal of the Institute shall be authenticated by the signature of the Chairman or some other member authorised generally or specifically by the Council to act for that purpose.

(3) Any document purporting to be a document duly executed under the seal of the Institute shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.
TERRITORIAL WATERS ACT 1976

ARRANGEMENT OF REGULATIONS

SECTION
1. Extension of limits of territorial waters.
2. Jurisdiction in respect of offenses committed in territorial waters.
3. Restriction on trial of persons other than Nigerian citizens for committed in territorial waters.
4. Short title.

TERRITORIAL WATERS ACT 1976

An Act to determine the limits of the territorial waters of Nigeria and for other matters connected therewith.

Commencement [8th April, 1967]

1. Extension of limits of territorial waters
   (1) The territorial waters of Nigeria shall for all purpose include every part of the open sea within twelve nautical miles of the coast of Nigeria (measured from low water mark) or of the seaward limits of inland waters.

   [1998 No. 1]

   (2) Without prejudice to the generality of the foregoing subsection, that subsection shall in particular apply for the purpose of any power of the Federal Government to make, with respect of any matter, laws applying to or to any part of the territorial waters in Nigeria.

   (3) Accordingly—
       (a) in the definition of territorial waters contained in section 18(1) of the Interpretation Act, for the words "thirty nautical miles" there shall be substituted the words "twelve nautical miles; and

       [1998 No. 1 [Cap. 123]

       (b) references to territorial waters or to the territorial waters of Nigeria in all other existing Federal enactments (and in particular in Sea Fisheries Act) shall be construed accordingly.

       [Cap. S4]

   (4) In subsection (3) of this section, existing “Federal enactment” means—
       (a) any Act of the National Assembly passed or made before the commencement of this Act or 26th August 1971 (which is the date of commencement of the amendment to this Act), including any instrument made before 1st October 1960 in so far as it has effect as an Act; or

       (b) any order, rules, regulations, rules of court or bylaws made before the commencement of this Act or 26th August 1971 aforesaid in exercise of powers conferred by any such Act or instrument.

   (5) Nothing in this section shall be construed as altering the extent of or the area covered by any lease, licence, right or permit granted under any enactment or instrument before the commencement of this Act or 26th August 1971 (which is the date of commencement of the amendment to this Act).

2. Jurisdiction in respect of offences committed in territorial waters
   (1) Any act or omission which—
       (a) is committed within the territorial waters in Nigeria, whether by a citizen of Nigeria or a foreigner; and
(b) would, if committed in any part of Nigeria, constitute an offence under the law in force in that part, shall be an offence under that law and the person who committed it may, subject to section 3 of this Act, be arrested, tried and punished for it as if he had committed it in that part of Nigeria.

(2) Subsection (1) of this section—
(a) shall apply whether or not the act or omission in question is committed on board or by means of a ship or in, on or by means of a structure resting on the sea bed or subsoil; and
(b) shall, in the case of an act or omission committed by a foreigner on board or by means of a foreign ship, apply notwithstanding that the ship is a foreign one.

(3) For the purposes of the issue of a warrant for the arrest of any person who is by virtue of this section liable to be tried in some part of Nigeria for an offence, that offence may be treated as having been committed in any place in that part.

(4) Any jurisdiction conferred on any court by this section shall be without prejudice to any jurisdiction (and in particular any jurisdiction to try acts of piracy as defined by the law of nations) exercisable apart from this section by that or any other court.

(5) Nothing in this section shall be construed as derogating from the jurisdiction possessed by Nigeria under the law of nations, whether in relation to foreign ships or persons on board such ships or otherwise.

(6) In this section—
“foreigner” means a person who is not a citizen of Nigerian;
“foreign ship” means a ship of any country other than Nigeria;
“ship” includes floating craft and floating structures of every description.

3. **Restriction on trial of persons other than Nigerian citizens for offences committed in territorial waters**

(1) Subject to the provisions of this section, a Nigerian court shall not try a person who is not a citizen of Nigeria for any offence committed on the open sea within the territorial waters of Nigeria unless before the trial the Attorney-General of the Federation has issued a certificate signifying his consent to the trial of that person for that offence.

(2) Nothing in subsection (1) of this section—
(a) shall affect any power of arrest, search, entry, seizure or custody exercisable with respect to an offence which has been, or is believed to have been, committed as aforesaid;
(b) shall affect any obligation on any person in respect of a recognizance or bail bond entered into a consequence of his arrest, or the arrest of any other person, for such an offence;
(c) shall affect any power of any court to remand (whether on bail or in custody) a person brought before the court in connection with such an offence;
(d) shall affect anything done or omitted in the course of a trial unless in the course of the trial objection has already been made that, by reason of subsection (1) of this section, the court is not competed to proceed with the trial; or
(e) shall, after the conclusion of a trial, be treated as having affected the validity of the trial if no such obligation as aforesaid was made in the proceedings at any stage before the conclusion of the trial.

(3) Subsection (1) of this section shall not apply to the trial of any act of piracy as defined by the law of nations.
(4) A document purporting to be a certificate issued for the purpose of subsection (1) of this section and to be signed by the Attorney-General of the Federation shall be received in evidence and shall, unless the contrary is proved, be taken to be a certificate issued by the said Attorney-General.

(5) Nothing in this section shall be construed as derogating from the provisions of any other enactment restricting the prosecution of any proceedings or requiring the consent of any authority to the prosecution thereof.

(6) In this section, “offence” means any act or omission which by virtue of section 2 of this Act or any other enactment is an offence under the law of Nigeria or any part thereof.

4. Short Title
   (1) This Act may be cited as the Territorial Waters Act.
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PETROLEUM REGULATIONS 1967
[L.N. 71 of 1967.]
[Section 9. ]

Commencement [8th March, 1967]

1. Citation and extent
   (1) These Regulations may be cited as the Petroleum Regulations.
   (2) These Regulations shall in so far as they are made under powers conferred by sections 9 (1) of the
       Petroleum Act (hereafter referred to as “the Act”) apply to the whole of the Federation, but in so far as
       they are made under the powers conferred in section 9 (2) thereof apply as set out in that subsection.
       [Cap. P10]

Regulation 2. Interpretation
In these Regulations, unless the context otherwise requires —
“Act” means the Petroleum Act—
“appropriate authority” means —
   (a) in relation to transport and storage of petroleum within the Federal territory, the Chairman to either
       the Lagos Island or Lagos Mainland Local Government Council;
   (b) in relation to transport of petroleum by rail, the Government Inspector of Railways;
in relation to transport of petroleum on Federal trunk roads outside the Federal territory, the Director of Federal Public Works;
“approved electrical to flame-proof installation” or “approved electrical flameproof appliances” as the case may be, means equipment certified flameproof for gases Buxton Group II in conformity with British Standard 229 or National Board of fire Underwriters Regulations of the United States of America, or other approved regulations or code of practice for flameproof or explosion-proof enclosures;
“approved type” in relation to fire extinguishers means a fire extinguisher of a type approved by the Chief Fire Officer as suitable for fighting a petroleum fire;
“approved vehicle” means a vehicle constructed in accordance with these Regulations;”
“articulated vehicle” means a motor vehicle with a trailer drawn thereby which is so constructed that a substantial part of the weight of the trailer is borne by the motor vehicle being free to articulate about the point of attachment when in motion and is readily detachable therefrom;
“boat” means any vessel not propelled by mechanical power and includes any lighter or barge;
“case of petroleum” means a wooden box (the thickness of the wood whereof shall not be less than three-eighths of an inch) containing two tins, each of which holds approximately, but not more than, four and one-sixth gallons of class “A” petroleum;
[S. I. 22 of 1988]
“category B licence” means a licence granted for the storage of petroleum products for sale at petrol filling stations or for the purpose of bunkering;
“category C licence” means a licence granted for the storage of kerosene in bulk or in tins for the purpose of sale;
“category D licence” means a licence granted for the storage of Liquefied Petroleum Gas (LPG) for sale at approved outlets;
“Chief Fire Officer” means the Chief Fire Officer within the meaning of section 3 of the Fire Service Act;
[Cap. F29.
“class ‘A’ petroleum” comprise all hydrocarbon liquids having a flash-point below 73 °F and all petroleum stocks with a flash-point below 200 °F that are being handled at temperatures above their flash point;
“class ‘B’ petroleum” comprises all hydrocarbon products having flash point from 73 °F to 150 °F inclusive;
“class ‘C’ petroleum” comprises all hydrocarbon products having flash point above 150 °F;
“Director-General” means the Director-General of the Ministry responsible for matters relating to petroleum resources, and includes for any other officer of that Ministry duly authorised by him to act on his behalf;
“filling shed” means a building used for the purpose of filling petroleum containers;
“fine concrete” means concrete made up of one part of cement (which shall be sulphate resisting where considered necessary by the appropriate authority) two parts of dry, clean, sharp, graded sand to pass three sixteenths of an inch mesh, and four parts of clean gravel or crushed stone to pass three quarters of an inch mesh;
“flash point” means the degree of temperature at which petroleum gives off a flammable vapour upon being tested by either the Abel closed cup tester or the Pensky-Matens closed tester;
“government inspector of shipping” means any officer so designated for the purposes of section 399 of the Merchant Shipping Acts;
[No. 30 of 1962 Cap. M11.]
“government petroleum store” has the meaning assigned to it by regulation 34(4) of these Regulations;
“harbour master” means harbour master duly appointed by the Nigerian Ports authority for a port under section 31 of the Nigerian Ports Authority Act and shall include any person authorised by that Authority to assist him;
“L. P. G” or “liquefied petroleum gas” means any petroleum product which is gas at normal atmospheric temperature and pressure and, being liquefiable under pressure, is normally stored and handled as a liquid;
“motor vehicle” means any vehicle or vessel propelled by a motor, in which petroleum is used as fuel and includes steam vehicles or vessels with petroleum fired boilers;
“naked light” includes any unprotected sources of thermal or electrical action which produces sparks or is capable of igniting petroleum or petroleum vapours;
“person” includes company, business enterprise, individual and their agents, employees, contractors and subcontractors;
“petroleum in bulk” means petroleum in any receptacle having a capacity of 300 gallons or upwards, whether on a ship or on shore;
“prescribed port” means the port of Lagos and includes any other port which the Director-General of the Ministry responsible for matters relating to ports may by notice in the Federal Gazette prescribe as such for the purposes of these Regulations;
“protected works” includes buildings in which persons dwell or assemble, docks, wharves, timber yards, public roads, and any other place not forming part of an installation which the Director-General may by order declare as protected works, but does not include the time keeper’s or administrative office of an installation;
“railway tank wagon” means a wagon specially constructed for the carrying and distribution of petroleum in bulk by rail or a dual purpose tank wagon with separate containers to carry either mineral oil or vegetable oil;
“small craft” includes any vessel not exceeding fifteen tons burden;
“storage shed” means a building used for the storage of class “A” petroleum exceeding forty gallons otherwise than in bulk or class “B” petroleum exceeding two hundreds gallons otherwise than in bulk;
“tanker” means any ship or vessels, as defined by the Merchant Shipping Act, in which the greater part of the cargo space is constructed or adapted for the transport of liquid petroleum, its derivatives or similar commodities in bulk and which is not for the time being carrying some other cargo in that part of its cargo space and shall include any ship having on board or about to take on board a cargo, the whole or any part of which consists of petroleum or having discharged petroleum if the holds, tanks and pipelines have not been rendered free from flammable vapour to the satisfaction of the harbour master;

[Cap. M11.]
“tank vehicle” means a motor vehicle specially constructed in accordance with these Regulations for the carrying and distribution of petroleum in bulk by roads, and includes an articulated vehicle;
“testing officer” means a person appointed as testing officer for any port by the Director-General of the Ministry responsible for matters relating to ports;
“tin of petroleum” means a metal receptacle, each of the sides whereof is of a thickness of not less than .0123 of an inch and the top and bottom parts thereof are of a thickness of not less than .0123 of an inch.

3. Copy of licence for Director of Petroleum Resources
An appropriate authority issuing licence under these Regulations shall send a copy of the licence to the Director of Petroleum Resources.

4. Prescribed returns
(1) The Director of Petroleum Resources may by notice in writing require any company or person who has obtained a licence or licences under any of these regulations or any refinery in Nigeria to submit to him such returns and other information as he may require from time to time, in such form and at such times as he may specify in the notice.
(2) without prejudice to the generality of the foregoing paragraph, monthly returns of imports, refinery off-takes, exports sales and receipts shall be submitted in a form prescribed by the Director of Petroleum Resources to reach his office not later than the 21st day of the month following that to which they relate.

5. Application
Nothing in these Regulations shall apply to class “B” petroleum, unless where otherwise stated or implied.

PART I.
Importation, Shipping Unshipping and Landing of Petroleum
A — General

6. Entry into Prescribed Port
(1) No petroleum shall be imported into Nigeria at any port other than a prescribed port, unless the consent in writing of the Director, of Customs and Excise has been first obtained and subject to such conditions as he may specify.
(2) Any person desiring to import petroleum at a port other than a prescribed port, shall apply to the Director
7. **Display of Flag and Light**
The master of every tanker shall, on entering the harbour, and during the time that such ship remains in the harbour, display by day a red flag not less than three feet square, with a white circular centre six inches in diameter, and by night a red light, at the mast head or where it can be best seen but not less than twenty feet above the deck and of such a character as to be visible all round the horizon at a distance of at least two miles, in addition to any navigation lights which may be required by any other law:

Provided that in the case of tanker being a petroleum barge which cannot normally comply with this regulation, the master of such tanker shall display by day in a conspicuous position above the deck a red flag or metal not less than eighteen inches square with a white circular centre six inches in diameter and by night an all-round red light.

8. **Declaration of quantity and quality of petroleum carried by ships entering harbour**
The master of every ship carrying petroleum shall before entering a prescribed port deliver to the pilot, if one is in charge of the ship, or the boarding officer in other cases, a written declaration under his signature stating —

(a) what quantity of petroleum the ship is carrying;
(b) whether any, and if so what quantity of the petroleum is class “A” petroleum;
(c) whether any, and if so, what quantity of the petroleum is class “B” petroleum;
(d) whether any, and if so, what quantity of the petroleum is in bulk;
(e) what quantity of petroleum (specifying what part of it belongs to each of the classes “A” and “B”) it is intended to land at that port or any other port in Nigeria,

but if anticipation of a ship’s arrival, the agent of such ship delivers to the harbour master a written declaration as aforesaid under his signature, no such declaration shall be necessary by the master of the ship.

9. **Declaration by ship leaving harbour**
The owner of petroleum to be exported from a port shall, in addition to complying with all requirements relating to the customs which are applicable thereto by law, deliver to the harbour master, before and after loading any ship, written declarations under his signature stating:

(a) In the case of a declaration made before loading a ship —
   (i) the approximate quantity of petroleum with which that ship will be loaded,
   (ii) the quantity of class “A” petroleum,
   (iii) the quantity of class “B” petroleum,
   (iv) whether any, and if so, what quantity of the petroleum is in bulk;

(b) In the case of a declaration made after loading —
   (i) the quantity of petroleum with which the ship has been loaded,
   (ii) the quantity of class “A” petroleum,
   (iii) the quantity of class “B” petroleum,
   (iv) whether any, and if so, what quantity of the petroleum is in bulk.

10. **Delivery of declarations**
A declaration delivered under regulations 8 and 9 of these Regulations—

(a) to a pilot or boarding officer shall without delay be delivered by him to the harbour master;

(b) to a harbour master (whether by an agent, pilot or boarding officer) shall without delay be delivered by him to the Collector of Customs and Excise.

11. **Anchorage of ship According to direction**
The master of ship carrying petroleum shall anchor or moor his ship at such anchorage or place as the harbour master may direct, and the master shall not move his ship therefrom without the written permission of the harbour master.

12. **Testing of samples of petroleum**
(1) The master of every ship carrying petroleum shall, if required by the Collector of Customs and Excise deliver to him without charge, samples of every variety of petroleum which it is intended to land at such port or any other port in Nigeria, for the purpose of having the same tested by the testing officer.

(2) When the samples aforesaid have been delivered to the Collector of Customs and Excise, he shall forward them to the testing officer who shall as soon as practicable test the same, sign and forward to the Collector
of Customs and Excise a report certifying that they are or not class “A” petroleum as the case may be.

(3) Until the testing officer shall report that any petroleum is not class “A” petroleum, it shall be deemed to be class “A” petroleum and shall be dealt with as such.

13. Prohibition of discharge into waters
No petroleum shall be discharged or allowed to escape into the waters of the port.

B. — Petroleum in bulk-loading or discharging of petroleum, etc

14. Requirements to be complied with while tanker is within harbour
The following requirements shall be duly observed in the case of every tanker within any harbour
(a) before any loading or discharging of petroleum or ballast water, or any gas-freeing or tank cleaning is carried out, the owner shall give due notice to the harbour master of the time and place of such loading, discharging, gas-freeing or tank cleaning;
(b) after all petroleum has been removed from any tanker, the holds and tanks shall be rendered gas-free: Provided that this regulation shall not require to be gas-free the tanks of a tanker which leaves the harbour without delay after the discharge of petroleum or remains only for the purpose of taking on board bunkers, stores or ballast, or for such other purposes as may be approved by the harbour master and if the tanks are closed down immediately after the discharge of such petroleum, and are not re-opened whilst the tanker is within the harbour, except —
(i) for filling up or sounding while taking in or discharge ballast water, or
(ii) with the permission of the harbour master;
(c) The loading or discharge of petroleum spirit or ballast water, and the rigging and disconnecting of hoses shall not be permitted between sunset and sunrise unless—
(i) adequate safe illumination is provided on board the ship, the equipment used for such illumination is designed, constructed and maintained in accordance with Lloyd’s Register of Shipping or other approved Classification Society’s requirements in relation to the position in the ship in which it is installed,
(ii) safe lighting in accordance with regulation 15 is provided on shore adequately to illuminate the ship when alongside the quay:
Provided that if anything occurs during the loading or discharging of petroleum or ballast water between sunset and sunrise to necessitate a repair to the plant, pipes or connections, or to interfere in any way with the uninterrupted flow of the petroleum or ballast water, such operations shall be stopped and not resumed until adequate safety measures have been taken;
(d) from the time when the holds or tanks are first opened for the purpose of loading or discharging petroleum or ballast water, until such time as the holds or tanks shall have been securely closed down and in the case of complete discharge, rendered gas-free as required by this regulation, there shall be no fire or artificial light on board such ship:
Provided that this regulation shall not prevent the use of lamps, heaters, cookers or other apparatus electric or otherwise, designed and constructed in accordance with Lloyd’s Register of Shipping or other approved classification Society’s requirements in relation to the position in the ship in which it is installed, and maintained in accordance with such requirements:
Provided further that this regulation shall not be deemed to prohibit the loading, discharging, ballasting, gas-freeing or tank cleaning of a tanker under conditions approved by the harbour master by means of steam from her own boilers, power generated on board by electrical plant or internal combustion engines, designed, constructed, installed, positioned and maintained in accordance with Lloyd’s Register of Shipping or other approved Classification Society’s requirements or by steam or electric power supplied from the and connected by equipment which shall with such requirements related to electrical equipment, where these are additional—
(i) the connection between the shore cable and the ship shall be made by means of a connection box in accordance with Lloyd’s Register of Shipping or other approved classification society’s requirements;
(ii) the cable shall be flexible tough-rubber sheathed type in accordance with B.S. 7 or other cable equally suitable for the purpose;
(iii) means, as by a changeover switch or suitable interlocking device, shall be installed at the ship’s switchboard or at any terminal board in the ship to which electric cable from a shore supply is connected to prevent the shore supply form being connected to the ship’s switchboard while this is connected to the ship’s generating plant;
(iv) all electrical equipment used in or in connection with the shore to the ship shall be maintained
in such condition as to prevent danger from electrical shock or fire;

(e) the owner shall take adequate steps to prevent any person under his control from smoking and
from carrying fuses, matches or any appliances whatsoever for producing ignition at or near any
place where petroleum or ballast water is being discharged or loaded or where gas-freeing or tank
cleaning is being carried out;

(f) all openings from cargo tanks (except the gas escape line) shall, save with the special permission
of the harbour master, be kept closed during the loading or discharging of petroleum or ballast
water except that —
   (i) ullage plugs or sighting ports not situated in enclosed or partially enclosed space may be removed
for ullaging, sounding or sampling, such ullage plugs or sighting ports to be closed immediately
this has been done unless they are adequately protected by strong noncorroding wire gauze
which shall be kept clean and free from obstruction, of mesh not less than 28 to the liner inch
and of gauge not less than 28 S.W.G. or other flameproof device which complies with Lloyd's
Register of Shipping or other approved classification society's requirements;
   (ii) ullage plugs or sighting ports situated in enclosed or partially enclosed may, with the special
permission of the harbour master, be removed for the purpose of ullaging, sounding or sampling
but such ullage plugs or sighting ports must be closed immediately this has been done;

(g) all pipes and other appliances used in the loading or discharging of petroleum spirit in bulk or of
ballast water shall be reasonably free from leakage; and all pipelines and hoses shall whilst rigged for
loading or discharging petroleum or ballast water, be adequately and continuously earthed and kept
constantly under supervision;

(h) when the discharging or loading of petroleum or ballast water has been commenced such discharging
or loading shall be carried out with due diligence, and if it is discontinued the tanks and holds of the
tanker shall immediately be closed;

(i) no petroleum shall be brought to the place of loading until the tanker into which it is to be loaded
is in readiness to receive it;

(j) instruments made of iron, steel or other material capable of causing a spark shall not be used for
the purpose of opening or closing the hatches or tank lids of a tanker, or for any other purpose in
connection with the loading or discharging of petroleum or ballast water, or gas-freeing or tank
cleaning and no scraping, chipping, or other work which might cause sparks shall be allowed during
the period of the above operations;

(k) save with the approval of the harbour master no anchor shall be down whilst the tanker is alongside
for the purpose of discharging or loading;

(l) there shall be hung over both bow and stern a connecting shackle attached to a wire in the end and that
wire shall be secured on-board so that a tow rope can be easily fastened thereto in case of emergency;

(m) during a storm accompanied by lighting in the close vicinity all loading or discharging of petroleum
shall be suspended and valves and tanks closed;

(n) no unauthorised craft shall be permitted to lie alongside or approach near to a tanker loading or
discharging class “A” petroleum;

15. Fire, light electrical apparatus not to be used on or near quay
Fires, lights or electrical apparatus other than electrical filament lamps, or self-contained electrical
lamps, heaters, cookers, or other types of safe apparatus so designed, constructed and maintained as to
be incapable of igniting flammable vapour, shall not be used on or near a quay upon which petroleum is
lying, or at which petroleum or ballast water is being discharged from or loaded into a tanker, or at which
gas-freeing or tank cleaning is being carried out by a tanker.

16. Ships distance between
Two or more tankers shall not, except for purpose of transhipment, lie within 100 feet of one another
unless in the opinion of the harbour master it is impracticable to maintain such distance

17. Tanker to be watched
Every tanker shall be watched by a competent member of the crew on board such ship until all petroleum
or ballast water shall have been discharged or loaded or the operations of gas-freeing or tank cleaning
completed and the holds or tanks securely closed and every tanker shall at all times have on board a
responsible person to carry out and give effect to the provisions of these Regulations.

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18. **Fire fighting alert**
All ship and shore fire-fighting appliances shall be kept ready during the operations of loading and discharging petroleum or ballast water or gas-freeing or tank cleaning.

19. **Police or fire officer to be on guard**
Whilst a tanker is lying alongside for the purposes of loading or unloading petroleum in bulk a member of the police force not below the rank of Inspector or a fire officer or other officer authorised by the harbour master shall, if so instructed, visit the ship for the purpose of seeing that these Regulations are being complied with and for taking appropriate action against any person committing a breach of these Regulations.

20. **Tanker discharging at below the rate of eighty tons per hour**
A tanker not discharging petroleum at the minimum rate of eighty tons an hour shall be liable to be removed from the wharf, at the direction of the harbour master, provided that, in the event of any accident to pumps, or other gear, which necessitates the stoppage of pumping, an allowance will be made for such time as is occupied in repairs.

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C — **Petroleum not in bulk** — class “A” petroleum

21. **Mode of carriage of class “A” petroleum**
No class “A” petroleum shall be imported or exported otherwise than in bulk unless contained either in strong receptacles so constructed as not to be likely to be broken in handling or to become defective or insecure whilst being conveyed, or to allow the petroleum to escape or to be accidentally opened, or in tins securely packed in wooded cases, and such receptacles or cases shall be plainly marked in accordance with the recommendation of the Standing Advisory Committee on the Carriage of Dangerous Goods and Explosives in Ships in the United Kingdom.

22. **Precautions before unshipping class “A” petroleum**
Before any class “A” petroleum is unshipped, the hold containing the petroleum shall be thoroughly ventilated, and when the hold has been emptied it shall thoroughly cleaned.

23. **Approval of vessel to convey class “A” petroleum**
(1) Class “A” petroleum which is not off-loaded at an authorised wharf or other place shall not be conveyed to or from any ship except in boats or small craft which have been approved by the Government Inspector of Shipping for the purpose.
(2) Such petroleum shall not be discharged at any wharf until the vessel or carriage by which the same is to be removed therefrom shall be at the place in readiness to receive the same, and all petroleum discharged in the harbour shall be forthwith removed therefrom or to some duly licensed place or storage or to moorings, the position of which has been approved by the harbour master.

24. **Prohibition of naked light on deck**
Whilst loading or discharging is proceeding, no naked light or smoking shall be allowed on the deck of the ship.

25. **Small craft carrying class “A” petroleum**
Small craft carrying class “A” petroleum shall be moored to buoys or anchored where directed by the harbour master, and shall not lie alongside any ship or wharf, except for the purpose of loading or discharging, or when empty.

26. **Precautions to be taken by craft carrying class “A” petroleum**
(1) A red light shall be exhibited not less than six feet above, the deck on every craft carrying class “A” petroleum within the limits of any port.
(2) No small craft carrying class “A” petroleum shall be within the limits of any port between the hours of sunset and sunrise unless it is anchored or moored at such place as the harbour master may in writing direct.
(3) A small craft carrying class “A” petroleum within the limits of any port shall exhibit only such lights as the harbour master shall from time to time direct.
(4) Every such small craft shall at all times have on board not less than one hundred pounds of dry sand in such a position as to be immediately available for use when required.
(5) The bilges of any such small craft shall not be pumped out while it is alongside any vessel or wharf or in confined waters.
29. **Loading or off-loading of class “A” petroleum**

1. Class “A” petroleum shall not be allowed on or in the vicinity of the wharf or other place appointed by the harbour master for the purpose.

2. No naked light or smoking shall be allowed on or in the vicinity of the wharf or other place whilst class “A” petroleum is being landed or shipped.

30. **Petroleum Carried With Other Cargo**

1. No class “A” petroleum shall be put on board any ship which is carrying any other cargo of an explosive or dangerous nature, unless such cargo is stowed in a separate hold, or such precautions are taken to the satisfaction of the harbour master, by ventilation and the provision of bulkheads or otherwise, as shall effectually prevent the accumulation of vapour from the petroleum and such vapour from reaching that part of the ship in which the explosive or other dangerous cargo is stowed.

2. The shipping of class “A” petroleum in unprotected tins on any ship is prohibited:

   Provided that tins, the outer covering of which has become damaged or has been accidentally removed, may be carried on deck, if they are kept in a place by themselves, and away from any fire or lights.

31. **Power Driven Vessels Carrying Class “A” Petroleum**

1. Power driven vessels carrying class “A” petroleum between Nigerian ports, or from one place to another in the inland waters, should be fitted with a watertight cofferdam of at least one frame space in length from the bulkhead separating the boiler-room or engine room the holds next to the boiler- room or engine room.

2. In the absence of such cofferdam, no class “A” petroleum shall be carried in the hold to the boiler-room or engine room unless the vessel is fitted with a cross bunker separating the boiler-room or engine room from the hold, and the bulkhead nearest to the hold is water tight.

3. While the petroleum is on board any sluice or other connections to the engine and boiler-rooms, shall be kept closed.

32. **Carriage of class “B” petroleum**

1. Class “B” petroleum shall not be put on or off-shore except at a wharf or place approved by the harbour master.

2. Such petroleum may be unshipping into any boat, which has the free-board prescribed for open boats by regulation 9 of the Merchant Shipping (Licensing and Control of Boats) Regulations.

3. A boat carrying class “B” petroleum shall not lie alongside any wharf for any period longer than is required for the loading or discharging is taking place no fire or light of any description except as described in regulation 14 (d) shall be allowed on or in the vicinity of the boat.

4. Loading and discharging of class “B” petroleum shall not proceed between sunset and sunrise.

5. A boat carrying class “B” petroleum shall exhibit a red flag by day and a red light by night.

33. **Power driven vessels carrying class “B” petroleum**

1. Power driven vessels carrying class “B” petroleum as cargo between Nigerian ports or form one place to another in the inland waters shall not carry such petroleum within five feet of the bulk head separating the boiler-room or engine-room from the adjoining hold unless fitted with a cross bunker or cofferdam.

2. Such petroleum shall be stowed on a vessel in such manner as to prevent the cases becoming damaged by the shifting of cargo.

3. While such petroleum is on board a vessel, any sluice or other connection to the engine and boiler-room shall be kept closed.
PART II
Storage of petroleum

A. General

34. Premises to be licensed
(1) Premises where on petroleum is kept shall be licensed for that purpose under these Regulations wherever —
   (a) Class “A” petroleum only is kept and exceeds 128 gallons in quantity;
   (b) Class “B” petroleum only is kept and exceeds 200 gallons in quantity;
   (c) Class “A” petroleum together with class “B” petroleum is kept and the total quantity exceeds two hundred gallons or the quantity of class “A” petroleum exceeds 128 gallons.

   (2) A licence shall be required under paragraph (1) of this regulation if the amount of class “A” petroleum —
   (a) in tins exceeds 40 gallons; or
   (b) in drums exceeds 92 gallons.

   (3) The provisions of this Regulation shall not apply —
   (a) to petroleum kept in a government petroleum store;
   (b) to petroleum to be used as fuel for a motor vehicle kept in the tank normally forming part of that vehicle;
   (c) to petroleum in tins or cases in transit by rail when temporarily held at a tranship or delivery station, provided such petroleum is removed to a special open enclosure and distinguished by adequate warning notice.

   (4) For the purposes of this regulation government petroleum store includes any petroleum store under the management and control of a local authority.

35. Issue of licences
Licences under regulation 34 of these Regulations may be issued by an appropriate authority and shall ordinarily be granted only where the premises intended to be used for the storage of such petroleum comply with the requirements of regulation 36 of these Regulations:
Provided that the appropriate authority may, not with the prior approval of the Director-General, grant a licence dispensing with any or all the requirements of regulation 36 of these Regulations and any licence so granted shall be endorsed accordingly.

36. Storage Sheds
(1) Subject to paragraphs (2) and (3) of this Regulation, the following conditions shall apply to the construction, maintenance and operation of storage sheds and shall be specified in all licences for the storage of petroleum —
   (a) where licences are granted for the storage of any quantity of petroleum in any one building —
      (i) the sills of the doorways and other openings of the storage shed shall, so as to form a well for the reception of the petroleum, be at a height not less than six inches above the floor level of the building, or
      (ii) the building itself shall be surrounded with a masonry wall or embankment or both not less than three feet high:
Provided that the enclosures formed whether under sub-paragraph (a) (i) or (ii) of this paragraph shall be capable of retaining the total quantity of petroleum to be stored in the event of its escape from the receptacle or receptacles in which it is contained, but where the storage shed is to be used solely for the storage of petroleum in receptacles which comply with the provisions of regulation 38 (2) (a) and (b) of these Regulations the enclosure or well referred to in sub-paragraphs (a) (i) and (ii) of this paragraph may be constructed in accordance with plans and specifications approved by the engineer to the appropriate authority so as to be capable, in the event of the escape of petroleum from its receptacles, of containing such amount as may be decided on in each case by the engineer to the appropriate authority but that amount shall not be less than one quarter of the total quantity of petroleum to be stored in such building;
   (iii) no water shall be allowed to accumulate within an enclosure or well formed as provided in sub-paragraph (a) (i) and (ii) of this paragraph and any drainage system, which has an outlet to beyond the enclosure or well, shall be constructed in accordance with plans and specifications approved by the Engineer to the appropriate authority or any person authorised to give such approval on his behalf and shall be provided with an outlet controlled by a valve or valves.
which can be actuated from outside such enclosure or well; and such valve or valves shall be kept closed except when it is necessary to open them for the discharge of water.

(b) a clear space of at least three feet in width must be left between the various storage sheds and a clear space of at least twenty feet, between such sheds and protected works and the boundaries separating adjoining plots;

(c) there shall be a space of at least fifty feet between storage sheds containing class “A” petroleum and sidings on which working locomotives pass;

(d) the storage shed shall be constructed entirely of non-flammable material and may have had a rammed earth floor:
   Provided always that elsewhere, than in municipalities, wood may, at the discretion of the appropriate authority, be employed in construction of such parts of the storage shed as are above ground level.

(e) the building itself shall be protected by lightning conductor as approved by the appropriate authority, except in the case of a steel-framed structure which must be adequately earthed;

(f) adequate ventilation shall be provided;

(g) every person managing or employed on or in connection with a storage shed shall abstain from any act whatever which tends to cause a fire and which is not reasonably necessary and shall prevent any other person from doing such act;

(h) no smoking shall be permitted in or adjacent to storage shed and suitable notice to this effect shall be conspicuously posted on the premises;

(i) no fire or naked lights shall be permitted;

(j) where electricity is used for lighting or other purposes in or within fifty feet of a storage shed the apparatus shall consist of an approved electrical flame-proof installed in conformity with the relevant British Standards for flame-proof fittings of this type, or the relevant American Codes where explosion proof fittings are used;

(k) all apparatus, cables, fitting and other equipment shall be installed and maintained to ensure that neither the flame-proof nor explosion proof characteristics, as the case may be, are invalidated;

(l) adequate supplies of sand or dry earth as well as an adequate number of fire extinguishers of an approved type shall be kept available for use in case of fire;

(m) the capacity in gallons shall be conspicuously marked on the storage shed;

(n) no receptacle containing petroleum shall be opened and no petroleum shall be drawn from any receptacle within the building in which the petroleum is stored;

(o) if the appropriate authority by notice in writing requires the holder of the licence to execute any repairs to any part of the installation which may, in the opinion of such authority, be necessary for the safety of the premises in respect of which the licence is granted and of adjacent premises, the holder of the licence shall execute the repairs within such period, not being less than one week from the date of the receipt of the notice, as may be fixed by the notice;

(p) such other conditions, as may with the approval of the Director-General be required in any particular case.

(2) Any condition specified under paragraph (1) of this Regulation may be waived in respect of any storage shed which had been licensed under the regulations in force prior to the commencement of these Regulations and so long as any such storage shed remains, in the opinion of the appropriate authority serviceable, he may, at his discretion and subject to such conditions as he may impose, grant a licence for the storage of petroleum in it although it does not comply with the conditions prescribed by this Regulation.

(3) Any alterations to installations licensed prior to these Regulations shall comply with the provision of these Regulations.

37. **Under ground storage for kerbside and garage pumps, etc.**

(1) Subject to paragraph (2) to (5) of this regulation, the appropriate authority may, with the prior approval in writing of the Director-General, grant a licence for the storage of petroleum in underground tanks for the purpose of retailing to the public.

(2) An applicant for such a licence shall, prior to submitting his application to the appropriate authority—
   (a) give to the Director-General full details of his proposals and such other information as the Director-General may require;
   (b) obtain the Director-General’s consent in writing to the proposals.

(3) The application shall be accompanied by—
   (a) evidence that the written consent mentioned in paragraph (2) of this regulation has been obtained;
(b) a plan showing the buildings existing or proposed on the site and the relation of the site to the roadways and adjoining property;

c) a certificate signed by the Chief Fire Officer or by an officer authorised by him in that behalf, that he is satisfied that the arrangements proposed for the prevention of fire satisfactory, and in accordance with paragraph 5 (u) of this regulation;

d) a certificate signed by a divisional Police Officer or the superior Police Officer in charge of a police Motor Traffic Division that he is satisfied that the site and layout of the proposed filling station do not constitute an unnecessary traffic hazard.

(4) All underground tanks shall be so constructed of not less than a quarter of an inch plate and, if so required by the appropriate authority, be provided with a manhole and shall satisfy the following provisions —

(a) all seams shall be welded;

(b) arrangements to the satisfaction of the appropriate authority shall be made for the prevention of damage to the bottom of the tank by impact from the dipstick by welding a metal strip of not less than six inches square or metal disc of not less than six inches in diameter to the bottom of the tank immediately below the dip-pipe;

(c) the metal strip or disc referred to in sub-paragraph (b) of this paragraph shall be steel plate not less than a quarter inch in thickness;

(d) all rust and scale shall be removed from the exterior of the tank and the tank shall then be painted on the outside with one coat of red lead of a standard type and specification and the liberal coat of bitumen, or alternatively, the tank shall be painted with two coats of bituminous paint, to the satisfaction of the appropriate authority.

(5) The following provisions shall also apply to underground tanks —

(a) the excavation should permit the tank to be not less than the two feet below ground level when the tank is set in its final position;

(b) where the soil is of good quality, that is to say, non-corrosive, the tank can be set in a simple excavation and subsequently back-filled with soil;

(c) where the soil may be corrosive, the tank may be similarly installed, but surrounded in inactive puddled clay, clean shingle, or sweet sand, free of extraneous matter;

(d) where the water table is high or there is risk of flooding, the tank should rest upon and be strapped to a concrete raft, or a combined concrete raft and cradle, which in either case must be of sufficient weight to overcome tank buoyancy, and back-filled as above;

(e) at locations where any leaking from the tank may find its way into local drains, wells, or other water supplies, water-ways, or waterproof concrete wells, nine inches thick, rendered on the inner surface with neat cement; and the space between the tank and the chamber walls should be back-filled as above;

(f) where underground tanks are placed under a building they must be covered with reinforced concrete of not less than nine inches in thickness and must be filled only from the outside of the building in the open through oil tight pipes fitted with screwed, flagged or approved type caps or valves;

(g) the chamber of every tank installation shall be raised above the level of the surrounding ground to prevent the ingress of surface water, and all pipelines, including the ventilating pipe below ground level, shall be protected against damage and corrosion to the satisfaction of the appropriate authority;

(h) no tank shall be lowered into an excavation unless and until the appropriate authority has been given prior written notice or information of the fact within a reasonable time;

(i) all underground tanks shall be tested for leakage with five p.s.i air pressure applied for two hours or such longer period as the appropriate authority may specify and the pressure will be applied after the tank has been placed in position and prior to back filling, and thereafter a further similar test shall be under-taken and witnessed by a competent person when the several pipelines and fittings have been assembled ready for operation, during which period there shall be no loss of pressure;

(j) the foregoing test for leakage shall be repeated:

(i) five years after the installation,

(ii) ten years after the installation, and thereafter—

(iii) at two yearly intervals until twenty years after installation, and thereafter—
(iv) at yearly intervals, and the results of each test shall be recorded in a book kept for the purpose by the licensee and countersigned by an officer of the appropriate authority or by an officer appointed in writing by the Director of Petroleum Resources:

Provided always that the appropriate authority may direct that installations shall comply with special conditions where special circumstances exist;

(k) any scales or rust or similar matter removed or scrapped from the interior of underground tanks shall be disposed of in a manner satisfactory to the Director of Petroleum Resources;

(l) all individual tanks must be provided with efficient electrical earth connections independent of pipe connections, having an electrical resistance value not exceeding ten ohms when measured by an earth resistance tested of the "Megger" or similar type;

(m) the capacity of any individual tank shall not exceed five thousand gallons;

(n) all fixed pipes must be of metal and be in positions where they will not be liable to be damaged;

(o) pipes for filling the tanks must extend inside to within six inches of the bottoms of the tank and must be fitted with screwed flanged or approved instantaneous metal couplings for their connection to the source of supply;

(p) vehicles must stand in the open when their tanks are being filled;

(q) the pump or pumps shall be placed in the position shown on a plan submitted; the pipe connection between the tank and the pump or pumps shall be placed underground and all joints, valves and cocks of an approved type shall be installed and maintained in a gas-tight condition;

(r) when charging the tanks of motor vehicles, the petroleum shall be pumped through approved measuring receptacles fixed in approved positions though sound, metallic, reinforced or other suitable hose of an approved type (electrically earthed or grounded if composed in part of metal) fitted with an approved quick-acting leak-proof valve and an approved nozzle;

(s) if an officer of the appropriate authority, or an officer appointed by the Director of Petroleum Resources, by a notice in writing directs the holder of a licence to execute any repairs to the installation, which may, in the opinion of such officer be necessary for safety, the holder of the licence shall execute the repairs within such a period as may be fixed by the notice; provided that such period shall be not less than one week from receipt of the notice;

(t) all due precaution shall be taken to prevent unauthorised persons from having access to any petroleum kept and to the supply tank;

(u) no artificial light other than electrical light may be used near tanks or pumps and every person employed on or in connection with such storage and distribution shall, when near storage or distribution apparatus, abstain from any act whatsoever which tends to cause fire or explosion and which is not reasonably necessary and shall prevent any other person, whilst near such apparatus, from doing any such act;

(v) buckets filled with dry earth or sand and at least one extinguisher of an approved type shall be provided near the pumps;

(w) the installation shall be liable to inspection by any officer duly authorised in that behalf by the appropriate authority or by the Director of Petroleum Resources.

(6) The appropriate authority may make special rules for the storage of class “B” petroleum in above-ground tanks for the purpose of retailing to the public.

(7) The Director-General may cause the appropriate authority to revoke any licence granted under this regulation if the licensee fails to comply with any of the conditions of the licence, or if the licence was granted without the prior approval in writing of the Director-General having been obtained.

38. Storage in bins and pits of class “A” petroleum

(1) Subject to the requirements of any other enactment and notwithstanding those of these regulations, on applications, the appropriate authority may license the keeping of class “A” petroleum on premises, or the conveying of such petroleum, and in any such case the following provisions of this Regulation, as the case may require, shall have effect.

[Form D.]
(2) Possession of such petroleum may be licensed where the petroleum is contained in gas-tight, tinned or galvanised sheet iron, steel or lead plate receptacles fitted with screw caps or other metal air-tight caps, and the receptacles comply with the following, that is to say —

(a) an air space of at least two and a half percent of the capacity of the receptacle shall be left in each receptacle at the time of filling;

(b) all receptacles shall be so substantially constructed and secured as not be liable to be broken or become defective, leaky or insecure, otherwise than by way of inevitable accident or criminal negligence;

(c) the nature of the contents and the words “highly flammable” shall be distinctly marked on all receptacles;

(d) the receptacles shall be kept in iron bins at least one-sixteenth of an inch thick, or in concrete masonry or bricklined cement-faced pits;

(e) the bins or pits shall substantially constructed to the approval of the appropriate authority;

(f) the bins or pits shall be provided with a ventilation pipe at least one inch in diameter adequately protected by two non-corrodible wire gauze diaphragms, communicating with the open air at least ten feet from the ground and either at least ten feet from any door, window, chimney or exhaust pipe, or above the roof;

(g) the door opening of such bins or pits shall be at such height that the portion below the opening can contain five percent in excess without flow therefrom of the quantity of petroleum allowed to be stored therein;

(h) not more than 500 gallons of the petroleum shall be kept in any such bin or pit except when it is desired to keep the petroleum shall be kept in any such bin or pit except when it is desired to keep the petroleum on the premises in metal drums of capacities of not less than 40 gallons and of not more than 65 gallons, for the purpose of distribution therefrom by means of approved appliances, and in any such case one such metal drum for each such approved appliance shall be allowed to be kept on the premises outside any such bin or pit;

(i) a bin or pit shall be at least twenty feet from the nearest part of any other bin or pit on the same or on other premises;

(j) if the bins or pits containing the receptacles of such petroleum are enclosed in buildings, the buildings themselves shall be protected by an efficient lighting conductor.

(3) In the case of receptacles to which this regulation applies at no time are they to be filled or replenished with class “A” petroleum on the premises, nor shall the contents of any such receptacles be exposed in the presence of fire or artificial light (except such light and fittings of the construction, position and character described in regulation 36 (1) (j) of these Regulations as are not liable to ignite any flammable vapour arising from such petroleum) and no fire or artificial light capable of igniting flammable vapour shall be brought within dangerous proximity to the place where any receptacle containing this class of petroleum is kept.

(4) Any licensee to whom a licence is granted under paragraph (1) of this regulation shall in respect of any class his vehicle or on his premises, direct—

(i) all persons concerned to take proper precautions for the prevention of accidents by fire or explosion and for the prevention of unauthorised persons from having access to any class “A” petroleum so kept or conveyed, or to receptacles which have contained or were or are intended to contain any such petroleum;

(b) every person managing or employed on or in connection with any garage store, bin, pit or other receptacle where or in which any such petroleum is kept:

(i) to abstain from smoking and from the doing of every other act, not reasonably necessary which is liable or tends to cause fire or explosion, and

(ii) to prevent any other person from doing or committing any such act;

(c) the display, in a conspicuous position on the premises where such petroleum is kept or stored, in letters of at least six inches in height, of notices forbidding smoking.

(5) The provisions of this Regulation shall, with such modifications as the case may require, apply to the conveyance of class “A” petroleum as they apply to its storage thereon.

(6) In the application of this regulation —
(a) at least one extinguisher of an approved type, and supplies of not less than seven hundred weight of sand or dry earth, shall be kept on the premises so as to be readily available for use in case of fire and the extinguisher and the supplies shall be maintained in the condition necessary or suitable as the case may be, for the intended purpose;
(b) petroleum shall not be allowed to escape into any inlet or drain communicating with a sewer; and
(c) no person shall repair or cause to be repaired any receptacle, bin or pit in which to his knowledge, any class “A” petroleum is or has been kept, until he has taken all reasonable precautions to ensure the receptacle, bin, or pit is free from this class of petroleum, and from any flammable vapour occasioned by the class of petroleum;
(d) the precautions to be for prevention of fire or explosion in the Federal Capital Territory, Abuja shall be such as satisfy the Chief Fire Officer.

39. Storage of Petroleum in Bulk

(1) Where on application made to the appropriate authority for permission to store petroleum in bulk, plans for such storage are acceptable to the engineer to the appropriate authority and, in respect of the Federal Capital Territory Abuja, agreed by the Chief fire Officer, and the application is approved in writing by the Director-General (after consultation in proper case with any town planning authority), the appropriate authority may thereafter grant a license for the storage of petroleum in bulk; and without prejudice to conditions that may be imposed in any particular case by the appropriate authority, the license shall be subject to such of the following provisions of this regulation as are applicable.

(2) If the storage relates to class “A” or class “B” petroleum —
   (a) in normal design fixed-roof tanks, the minimum distance —
      (i) between the perimeter of the tank and the outer body of the installation shall be the diameter of the tank or fifty feet, whichever is the less, but in no case less than thirty feet,
      (ii) between tank and tank shall be the diameter of whichever is the smaller or fifty feet whichever is the less;
   (b) in floating roof tanks, the minimum distance —
      (i) between the perimeter of the tank and the boundary of the installation, or
      (ii) between tank and tank, shall be not less than twenty feet; and for and for the purpose of sub-paragraph (a) or (b) of this sub-regulation —
      (c) small tanks shall be considered as one tank if sited together in groups not exceeding a combined capacity of 3,000 water tons, and spaced according to the requirements of the locality and of operational needs.

(3) If the storage relates to liquefied petroleum gas (hereafter referred to as “LPG”), and —
   (a) the LPG vessels does not exceed 500 cubic meters, the minimum distance —
      (i) from the boundary of the installation, or
      (ii) from open fires; or
      (iii) from class “A” and class “B” petroleum, shall be 50 feet;
   (b) the LPG vessel exceeds 500 cubic metres, the minimum distance —
      (i) form class “A” and “B” petroleum shall be 50 feet,
      (ii) from the boundary of the installation, or of open fires, as the case may be, shall be 75 feet.

(4) Storage tanks shall accord with standards approved by the Director-General of the Federal Ministry of Works and Housing, and be designed and constructed from mild steel or other material approved by him, and storage tanks in any event shall be adequately protected from rust and conspicuously marked with their capacity in gallons or barrels as the case may require, and if they are to be exposed to the elements above ground, be painted white or other light colour; and —
   (a) when sited below the surface of the ground, they shall be covered to a minimum depth of twelve inches with allowance made at surface level for manhole covers, and the tanks shall, (if in the event for serious leakage, contamination of water supplies, water courses or any drainage system is probable or likely), be surrounded with puddled clay not less in thickness than twelve inches, or by fine concrete of a thickness approved by the engineer to the appropriate authority;
   (b) when sited wholly or partly above the surface of the ground, they shall be supported by such means as the engineer to the appropriate authority may in writing approve, and be surrounded by a main retaining bound wall.
and in any event, the tanks —

(c) shall be fitted with manholes of a size sufficient to enable easy access to the insides and with vents capable of relieving any excess pressure or vacuum;

(d) shall have access to their roofs by means of a ladder or staircase of a type approved by the Director of Petroleum Resources, and where a tank is of the class known as floating roof tanks, it shall have an adequate wind girder;

(e) shall be provided with efficient electrical earth connections independent of pipe connections, so however that they shall have an electrical resistance value not exceeding ten ohms measured by an earth resistance tester of the type known as “Megger”, or any type of tester of a similar nature designed to measure electrical resistance; and

(f) in the case of fixed roof tanks, an air space of not less than two and one half percent of their capacity (including the manhole) shall be provided to allow for expansion.

(5) Where tanks are sited below the surface of the ground, the appropriate authority may require the area to be fenced if the position of the tanks is not obvious; and subject thereto:

(a) if the tanks are protected by adequate concrete covering, the licensee may, with the approval in writing of the appropriate authority, use the open space without roof of other covering for the filling of vehicles; and

(b) if the tanks are not protected by concrete covering the licensee may use the space only for the temporary storage of metallic packages.

(6) Opening in storage tanks (other than vent pipes) shall be air-tight when closed; and pumping main and pipes shall have affixed or used therewith efficient means of stopping the flow of petroleum in the event of damage to pipelines connected to or used with any storage tank;

(7) Save as to ventilating opening provided, the roof of a storage tank shall be gas-tight; and where there are open vents or pressure and vacuum valves intended for use with a storage tank, they shall be filled in such manner as to prevent any increase in pressure differentials over the appropriate storage tank design maximum, with the vent flow capacity of a size appropriate to cope with variation in volume due to any temperature change likely to be experienced in service, whether occasioned in filling, or discharging or by reason of ullage;

(8) Where tank pits or wells are necessary for the siting of storage tanks under this Regulation, they shall not at any time be connected with any drainage, designed or designated for any purpose other than the storage of petroleum;

(9) Where storage tanks are surrounded by a main retaining bound-wall, the following provisions shall apply—

(a) the total capacity of the storage tanks shall not exceed 60,000 water tons;

(b) the enclosure shall be capable of containing the contents of the largest storage tanks plus ten percent of the contents of the remaining tanks, and if there is only one tanks, the bound-wall shall, in the event of any emergency or conflagration, be capable of containing the contents of the tanks, unless there are adequate piping facilities approved by the Director-General of the Federal Ministry of Works and Housing, to remove them;

(c) there shall be installed in the enclosure, an efficient oil interceptor with an isolating valve;

(d) water shall not be allowed to accumulate within the enclosure or any part thereof where the storage tanks are on concrete foundations and the bed of the enclosure is of concrete, and drainage of the enclosure shall be effected by means of a pipe fitted with a valve, to be kept closed when not in use, which is capable to being actuated outside the enclosure;

(e) intermediate bound-walls up to half the height of the main bounds or a height of two feet, whichever is the less, shall be provided as fire breaks in cases where storage tanks are of a total capacity of 20,000 water tons or more.

(10) In the application of this regulation—

(a) save in any building set apart for offices, soldering shed, laboratory, living quarters, engine room, boiler-house or smithy, fires and naked lights shall not be brought to any installation on the site or used in repairing or maintaining storage tanks or equipment or fixtures used therewith;

(b) the licensee shall undertake in writing to effect prompt repairs to leaks in storage tanks;

(c) workmen shall not be permitted to enter any storage tank until the concentration of gas is ascertained to be within the margin of safety or that it is free of gas, as the case may be and thereafter while work is in progress, all feed and vent lines shall be disconnected and blanked off,
and storage tank hatches shall be kept open;
(d) adequate ventilation shall be provided during any periodic cleaning of a storage tank, with frequent tests to be made in the course of the work to check of any increase in gas concentration, and where the concentration exceeds a half per cent—
(i) gas masks shall be worn by persons likely to be affected,
(ii) tools used shall be incapable of causing sparks; and
(iii) hand lamps and torches used shall be approved electrical flame-proof appliances.

40. Adequate fire fighting measures
   (1) In every installation for the bulk storage or handling of petroleum there shall be provided and kept in readiness to the reasonable satisfaction of the Chief Fire Officer adequate means designed to extinguish fire.
   (2) Each item of fire fighting equipment shall be inspected and tested at appropriate intervals by a competent person appointed for the purpose by the licensee; and the date of the last inspection shall be painted on the appliance and the result of the inspection shall be entered in a log book kept for that purpose.
   (3) Personnel employed in the installation shall be instructed in the use of each item of the fire fighting equipment.
   (4) Instructions to personnel in case of fire shall be clearly and concisely expressed and prominently displayed.
   (5) "No Smoking" signs shall be posed as needed in the installation.
   (6) Whenever a fire occurs in an installation, a report of the circumstances and probable cause shall be forwarded by the licensee to the Chief Fire Officer and to the Director of Petroleum Resources within forty-eight hours of the occurrence.

41. Filling sheds
   (1) No filling shed shall be used for any purpose other than the washing, cleaning and filling of petroleum containers.
   (2) No filling shed shall be under the same roof as a storage shed unless they are separated by a wall of metal sheeting, masonry or concrete. Provided that the wall may have in it a doorway giving direct communication between the storage shed and the filling shed, if the doorway be such as to enable it at all times to be closed immediately by a fire-proof door.

42. Soldering filled tins
   (1) The soldering of filled tins shall not be out in the filling shed but shall be done in a separate building not less than fifty feet distant therefrom, or in an area separated by a wall of metal sheeting, masonry or concrete.
   (2) The soldering irons, unless electrically heated, shall be heated in a separate compartment from that in which the soldering takes place.
   (3) Fires used for heating soldering bolts shall be at least three feet above ground level.
   (4) The opening between the two compartments through which the soldering irons are passed shall be at a height of not less than three feet from the ground and shall be provided with an iron shutter which can be lowered at once.

43. Entry for the purpose of inspection
   (1) Any officer deputed by the appropriate authority or any officer authorised by the Director of Petroleum Resources or any police officer not below the rank of inspector may, at any time between sunrise and sunset, enter any premises in respect of which a licence to store petroleum has been granted and inspect the same.
   (2) Any officer deputed by the appropriate authority or any officer authorised by the Director of Petroleum Resources or any police officer mentioned in paragraph (1) of this Regulation may, on such entry, require any licensee to show him any of the receptacles, bins or tanks in which any of the petroleum in his possession is stored or contained, to give him such assistance as he may require for examining the same and to deliver to him a sample or samples from any of the receptacles, bins or tanks.

44. Application for licence
   (1) Every application for a licence to store petroleum shall be submitted to the appropriate authority in writing and shall be accompanied by a plan drawn to scale, showing a site of the installation and the design of the storage shed or tanks in all respects in sufficient detail to enable the project to be fully understood.
   (2) Application for licences to store petroleum shall specify—
(a) the description and quantity of petroleum which the applicant desires to store and the manner in which it is proposed to store it;
(b) the name and position of the premises in which it is proposed to store the petroleum and whether the side premises fulfil the conditions required by regulations 36 and 39 of these Regulations in so far as they are applicable to the installation;
(c) the total amount of petroleum proposed to be stored in each building which it is proposed to erect.

45. **Duration of licence**
   Every license to store petroleum shall expire on the 31 of December of the year in which it is issued, except in the case of a license to store petroleum in bulk which may with the approval of the Director-General be issued for such longer period as he may think fit.

46. **Renewal of licences**
   Every application for the renewal of a licence to store petroleum shall be made in the same manner as an application for an original licence, except that a plan need not be submitted, and the application shall be made not less than thirty days, or such longer period as the appropriate authority may decide, before the day on which the original licence expires.

47. **Duration of renewal licence**
   Every renewal of a license granted under regulation 45 of these Regulation shall be valid for a period of two years from the date of such renewal subject to the payment of the annual fees prescribed in regulation 48 of these Regulations, unless the license is earlier revoke under regulation 104 of these Regulations.

[S. I. 22 of 1988]

48. **Fees for licence**
   (1) Where a license or permit is required to authorise a person to store petroleum product, there shall be charged for such license or permit and for each renewal of such license or permit the fees set out in this Regulation.

(2) **Category A Licence**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application fee</td>
<td>5,000</td>
</tr>
<tr>
<td>Grant fee (i) Not exceeding 10,000 litres</td>
<td>2,000 per annum</td>
</tr>
<tr>
<td>Grant fee (ii) For every additional 10,000 litres or part thereof</td>
<td>1,000 per annum</td>
</tr>
<tr>
<td>Renewal fee (i) Not exceeding 10,000 litres</td>
<td>2,500 per annum</td>
</tr>
<tr>
<td>Renewal fee (ii) For every additional 10,000 litres or part thereof</td>
<td>1,000 per annum</td>
</tr>
</tbody>
</table>

(3) **Category B Licence**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application fee</td>
<td>3,000</td>
</tr>
<tr>
<td>Grant fee (i) Not exceeding 20,000 litres</td>
<td>2,000 per annum</td>
</tr>
<tr>
<td>Grant fee (ii) For every additional 20,000 litres or part thereof</td>
<td>500 per annum</td>
</tr>
<tr>
<td>Renewal, variation, validation fee (i) Not exceeding 20,000 litres</td>
<td>2,500 per annum</td>
</tr>
<tr>
<td>Renewal, variation, validation fee (ii) For every additional 20,000 litres or part thereof</td>
<td>500 per annum</td>
</tr>
</tbody>
</table>

(4) **Category C Licence**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application fee</td>
<td>2,000</td>
</tr>
<tr>
<td>Grant fee (i) Not exceeding 20,000 litres</td>
<td>300 per annum</td>
</tr>
<tr>
<td>Grant fee (ii) For every additional 20,000 litres or part thereof</td>
<td>300 per annum</td>
</tr>
</tbody>
</table>
Category D licence

(a) Application fee................................................................. 1,000
(b) Grant fee
   (i) Not exceeding 500 kilogrammes................................. 500 per annum
   (ii) Additional 500 kilogrammes or part thereof............. 500 per annum
   (iii) Exceeding 2,000 kilogrammes................................. 200,000 per annum
(c) Renewal fee-
   (i) Not exceeding 500 kilogrammes................................. 500 per annum
   (ii) Additional 500 kilogrammes or part thereof............. 500 per annum
   (iii) Exceeding 2,000 kilogrammes................................. 200,000 per annum

Petroleum depot licence

(a) Application fee................................................................. 100,000
(b) Grant fee.............................................................................. 50,000 per annum
(c) Renewal fee.......................................................................... 50,000 per annum

Bunkering Licence

(a) Application fee................................................................. 10,000
(b) Accreditation fee............................................................... 50,000 per annum
(c) Vessel/Motorised barge....................................................... 10,000 per annum
(d) Renewal –
   (i) Accreditation fee ......................................................... 50,000 per annum
   (ii) Vessel/Motorised Barge ................................................. 10,000 per annum

Permit to Construct Liquefied Petroleum Gas (LPG) filling plant

Application fee................................................................. 10,000

Licence to operate Liquefied Petroleum Gas (LPG) filling plants

(a) Grant, - fee ₦100 per metric ton or part thereof per annum subject to a minimum of.............................................. 10,000 per annum
(b) Renewal fee: ₦100 per metric ton or part thereof per annum subject to a minimum of.............................................. 10,000 per annum

Permit to Construct Lube Oil Blending Plants

Application fee................................................................. 10,000

Licence to operate Lube, Oil Blending Plants

(a) Grant fees............................................................................. ₦2,000 per 20,000 litres or part thereof per annum
(b) Renewal fees........................................................................ ₦2,000 per 20,000 litres or part thereof per annum

49. Government petroleum store

(1) The provisions of this regulation and regulations 50, 51, 53 and 54 of these Regulations shall apply to storage of Petroleum in government petroleum stores.

(2) When government petroleum stores are established at any port, an engineer appointed by the Director of Petroleum Resources shall be responsible for seeing that the general regulations governing the storage of petroleum are complied with in the store.

(3) When import entries have been passed, consignment of petroleum may be received into the store.

(4) The store shall be opened for the receipt and delivery of petroleum on Saturdays from 7 a.m. to 12.30 p.m. and on other days (excepting Sundays and public holidays) from 7 a.m. to 12.30 p.m. and from 2.30 p.m. to 4.30 p.m.; Provided that on payment of the overtime fees prescribed under the Customs and Excise Management
Consolidation Act, the store may be opened on any day between sunrise and sunset at the request of any person.

50. **Rents in Government Petroleum Store**
   (1) The following rental shall be paid in respect of petroleum stored in a government petroleum store –

   - When the petroleum is in cases containing not more \(81/3\) gallons, or is not packed in cases, for each ten gallons or part thereof –
     - Up to and including the last day of the calendar month in which the storage commences .................................. 0.5k
     - Thereafter for each of the three next succeeding calendar months or part thereof ............................................. 1k
     - Thereafter for each of three succeeding calendar months or part thereof.......................................................... 2k
     - Thereafter for each calendar month or part thereof .......................................................... 3k

   (2) Such rental shall be paid to the Collector of Customs and Excise monthly in advance and if not paid maybe sued for by such Collector.

51. **Accounts of receipts petroleum into government petroleum store**
   An account of the receipts of petroleum into a government petroleum store shall be taken and after the examination of each consignment is completed the storekeeper of the store shall transmit to the Collector of Customs and Excise a certificate in the following form—

   **PETROLEUM CERTIFICATE**

   I certify that the consignment of ........................................................................................................................... ex ss received on ................................................................. and cosigned to ................................................................................................................................. has been examined with the following results

   - Class “A”..............................................
   - Good..............................................
   - Leaking.............................................
   - Used for filling..................................
   - Empty.............................................

   .........................................................................................................................
   .........................................................................................................................

   Storekeeper                                                              Owner

52. **Separate storage of each consignment**
   Each consignment of petroleum is to be stored separately in a government petroleum store and a label affixed thereto showing the date of receipt, the names of consignee and importing ship.

53. **Delivery of petroleum**
   Deliveries of petroleum are to be made on delivery orders signed by the owner and no delivery shall be allowed until rent is paid.

54. **Loss in respect of petroleum received into government petroleum stores**
   No compensation shall be made to any importer, owner or consignee of any petroleum received into a government petroleum store by reason of any damage occasioned thereto by any natural or accidental cause, or for loss by theft or other unauthorised removal, but if such petroleum shall be embezzled or stolen by, or by means of the connivance of, any officer in the service of the Government of the Federation, and such officer is prosecuted to conviction for the offence, whether by the importer, owner or consignee or any other person authority by law, the value of such petroleum, together with any duties of customs paid thereon, shall, on the approval of the Director-General, be paid or made good to such importer owner or consignee.
55. **Prohibition of transport without licence**
No person shall transport petroleum in bulk otherwise than under and in accordance with a license issued under this Part.

56. **Licence for transport**
(1) Licences for the transport of petroleum in bulk by means of pipeline, may be granted by the Director-General and shall be in Form G in the Schedule of these Regulations and shall be subject to the conditions specified therein.
   
   [Form G.]

(2) The applicant for a license shall furnish the Director-General with a copy of the proposed rules for the operation of the pipelines and shall satisfy him that the proposed pipelines can at all times be operated with safety and in accordance with the Act and the regulations made thereunder.

(3) The fee payable for a license to transport petroleum in bulk by means of a pipeline under these Regulation shall be $10.

(4) For the purpose of this Regulation, the pipelines referred to shall be for the purpose of transporting petroleum from a port where it is unloaded to the nearest bulk installation or from a refinery to a jetty or loading point.

57. **Issue of licence**
(1) Licences for the transport of petroleum in bulk otherwise than by pipelines, shall be issued by the harbour master, or an officer authorized by him in that behalf if, the transport is by water, or by an appropriate authority if the transport is by land; and shall be in Form H or I in the Schedule to these Regulations and shall be subject to the conditions specified therein:

   Provided that in the case of a license in form I, for the transport of petroleum in bulk by road, the licensing officer shall delete such of the conditions specified in form I as are inconsistent with the provisions of these Regulations.

   [Form H. and I.]

(2) The fee for a license to transport petroleum in bulk otherwise than shall be $20.

58. **Permit to Operate Kerosene Peddling Truck**
(1) No person shall operate a kerosene peddling truck unless the truck has been registered and the person has been issued a permit by the Director of Petroleum Resources under these Regulations.

   [S. I 22 of 1988]

(2) Application for registration shall be made in writing to the Director of Petroleum Resources and accompanied by a fee of $3,000.

   [S. I 4 of 1996]

(3) The Director of Petroleum Resources may, on receipt of an application under paragraph (2) of this regulation, if he thinks fit, register the truck and issue the applicant a permit to operate the truck as a kerosene peddling truck.

(4) Any permit issued under paragraph (3) of this regulation shall be for valid for the year and may be renewed thereafter yearly on the payment of a renewal fee of $5,000 subject to the applicant meeting any conditions stipulated, from time to time, by the Director of Petroleum Resources.

59. **Security measures against breakage**
(1) Class “B” petroleum not in bulk shall be conveyed in air-tight tins or drums of steel or iron or other receptacles not easily broken, or in bottles securely stoppered and carefully packed so as to avoid risk of breakage.

(2) Class “A” petroleum not in bulk shall be conveyed except if it is contained in receptacles and packed in accordance with the following requirements —

   (a) Class “A” petroleum shall be contained in gas-tight tinned or galvanized sheet-iron, steel, or lead-plated receptacles each containing not more than seventy gallons and fitted with well-made filling holes and well-fitted screw plugs, or fitted with screw cap or other cap with metal air-tight undercap, and the receptacles shall be packed in strong wooden cases, the thickness
of the wood to be not less than three eighths of an inch;

(b) Such receptacles shall be constructed and secured as not to be liable, except in circumstances of grave negligence or extraordinary accident, to be broken or become defective, leaky or insecure;

(c) Such receptacles or cases shall be marked as directed in regulations 21;

(d) An air space of a least two and a half percent of its capacity shall be left in each receptacle at the time of filling.

Provided that this Regulation shall not apply to the conveyance in a motor vehicle of petroleum to be used as fuel in such vehicle.

60. Precaution against damages
Persons engaged in the conveyance of petroleum not in bulk shall take due precaution for preventing the packages or receptacles from becoming damaged in the course of conveyance and for preventing any damage or danger to any person or property and shall abstain from any act which tends to cause fire or explosion and which is not reasonably endeavour to prevent any other person from committing such act.

61. Conditions for transporting lidless cases by rail
Lidless cases of petroleum may be transported by rail subject to the following conditions —

(a) railway steel wagons only shall be used;

(b) layers of matting or other suitable dunnage shall be placed on the floor of the wagon;

(c) layers of matting or other suitable dunnage shall be placed between each tier or lidless cases;

(d) layers of matting or other suitable dunnage shall be packed between the outer rows of lidless cases and the sides of the wagon to ensure that the cases are safely and tightly packed and will not be damaged, and that the tins of petroleum therein contained will not be damaged, pierced, dented or punctured during transit;

(e) each wagon shall be so loaded as to prevent movement of the cases in transit;

(f) the cases shall be packed in complete tiers on an even plane;

(g) each tier shall consist of complete rows along the entire length and breadth of the wagon;

(h) the level of the topmost tier shall not exceed the lowest height of any of the sides of the wagon;

(i) at least two wagons containing non-flammable goods shall in every railway train transporting cases of petroleum be attached between the railway engine and any wagon loaded with cases of petroleum;

(j) passenger coaches and wagons loaded with cases of petroleum shall not form part of one railway train except in exceptional circumstances and only if authorized in writing by the general-manager of the Nigeria Railway Corporation;

(k) no case of petroleum containing any punctured, leaky or badly damaged tin shall be loaded into any railway wagon;

(l) the general manager of the Nigerian Railway Corporation, or any person authorized by him, may refuse to accept cases of petroleum for transit by rail unless they are packed to his satisfaction and in accordance with these conditions;

(m) cases of petroleum shall not be loaded or unloaded between sunset and sunrise;

(n) notices strictly forbidding smoking, the carrying of matches and unprotected lights within sixty feet of a wagon loaded with cases of petroleum shall be conspicuously painted or displayed on the wagon;

(o) no unauthorized person shall be permitted to ride on the wagon but smoking and the use of naked lights are strictly forbidden within sixty feet of the wagon; and the wagon shall not be halted within sixty feet of a fire or open flame;

(p) the guard’s van of all trains transporting petroleum shall at all times be supplied with a fire extinguishing appliance of a type suitable for fighting a petroleum fire, ready and available for immediate use in case of fire.

62. Transport of tins of petroleum by road on motor lorries
Tins of petroleum may be transport by road on motor lorries subject to the following conditions —

(a) The motor lorry shall be fitted with three permanent sides and tailboard. The tailboard shall be attached to the rear of the lorry by strong hinges, and shall be so constructed as to be capable of being securely fastened in a vertical position after the lorry is loaded;

(b) When the floor of the lorry is not of timber it shall be fitted with a wooden tray which shall be so constructed as to protect the tins from any damage, puncture, piercing or denting;

(c) Layers of matting or other suitable dunnage shall be placed on the bottom of the wooden tray;

(d) Layers of matting or other suitable dunnage shall be packed between the outer row of tins and the sides of the lorry to ensure that the tins are safely and securely packed and that they will not be damaged,
punctured, pierced or dented either during transit or owing to the construction or condition of the lorry;
(e) Each lorry shall be loaded with complete tiers packed on an even plane;
(f) Each tier shall consist of complete rows along the entire length and breadth of the tray;
(g) The level of the topmost tier shall not exceed the lowest height of any of any sides or the tailboard of the lorry;
(h) No punctured, leaky or damaged tin shall be loaded on any lorry;
(i) Tins of petroleum shall not be loaded or unloaded on any lorry;
(j) The lorry shall not be driven on any road between sunset and sunrise;
(k) The lorry shall be loaded under the surveillance of a competent person and shall not be unloaded except under the supervision of an agent of the consignee and at a depot of the consignee;
(l) The lorry shall at times be in charge of a competent person or persons authorised by the owner; and not more than three persons (including the driver) shall travel in a vehicle transporting tins of petroleum;
(m) Smoking or the use of naked lights shall not be permitted on or in the vicinity of the lorry; and the lorry shall not be driven or halted within sixty feet of a fire or open flame;
(n) The lorry shall have affixed to each side and to the tail end of it notice board on which shall be conspicuously painted in bright letters the words “Highly flammable”, and the board shall be so placed as to be easily visible to person approaching the lorry.

PART IV
Open air storage of petroleum

63. Meaning of approved
(1) In this Part, unless the context otherwise requires, “approved” means approved by an officer appointed by the appropriate authority or the Director of Petroleum Resources or such officer deputed by him for the purpose.
(2) The provisions of this Part shall apply to open air storage of petroleum.

64. Storage in open air premises
(1) Notwithstanding anything in these Regulations but subject to any other laws, an appropriate authority may grant a license for keeping any quantity of petroleum on premises in the open air in metal drums of not less than forty-four gallons and of not more than sixty-five gallons for the purpose.

65. Drums for storage of petroleum
(1) Drums may be placed upon the ground or may be supported on some approved floor (which shall not be made of wood in municipalities) and the area in which they are stored must be surrounded by walls of brick, stone, cement or an approved embankment, not less than three feet high or if necessary of such greater height as will at all times ensure that the enclosure so formed is capable or retaining the total quantity of petroleum to be stored in the event of its escape from the entire number of drums in which it is contained.
(2) The drums in the storage enclosure shall be arranged in such a manner that easy access to within twelve yards is available to any part of the storage enclosure to enable efficient use of extinguishers to be made in case of fire.
(3) Where in the event of a serious leakage there is a possibility of water supplies, watercourses or drainage systems adjacent to the premises being contaminated, the floor of the enclosure storage area must be formed of concrete or of such other material as is approved by the engineer to the appropriate authority.
(4) A clear space of at least twelve feet in width must be left between such enclosures and protected works and between such enclosures and the boundaries separating adjoining plots.
(5) There shall be a space of at least fifty feet between storage enclosure and sidings on which working locomotives pass.
(6) An air space of at least two and a half percent of the capacity thereof shall be left in each metal drum.
(7) All leaks in drums shall be promptly repaired.
(8) Drums must be adequately protected from rust and must be painted.
(9) Nothing in this Regulation shall apply to the storage of drums in a bulk petroleum installation licensed for the storage of petroleum in bulk under regulation 39.

66. Fire Fighting Equipment
(1) There shall be kept in such places and in such manner as shall be approved, ready and available for use in the enclosed area in case of fire—
   (a) A sufficient supply of sand or dry earth;
   (b) An adequate number of fire extinguishers of an approved type;
   (c) Buckets or containers and scoop shovels, to the satisfaction of the Chief Fire Officer.
(2) Such sand, earth and other fire fighting appliances shall at all times be maintained in a condition suitable for their intended immediate use.

67. Escape into sewer
Petroleum shall not be allowed to escape into any inlet or drain communication with a sewer.

68. Air, drums stored in open
The appropriate authority may require the provision of a fire-proof roof over drums stored in the open air where special conditions exist such as a danger from sparks

69. Draining of enclosed areas
All enclosed areas, when the entire floor thereof is of concrete or of non-porous material shall be drained by pipe fitted with a valve actuated from the outside of the enclosure; and such valve shall always be kept closed except when actually in use and no water shall be allowed to accumulate in the enclosure.

70. Other conditions
The appropriate authority may impose such other conditions as may be required in any particular case.

71. Application of certain regulations
(1) The provision, conditions and stipulations contained in the regulations mentioned in paragraph (2) of this Regulation shall apply to the storage of petroleum on premises in the open air as they apply to storage of petroleum in receptacles to which those regulations apply.
(2) The said regulations are regulations 38 (2) (a) to (d), (3) and (4), 43, 44, 45, 46, 103 and 104 of these Regulations.

PART V
Transport of petroleum in bulk on federal trunk roads and other roads in the Federal Capital Territory, Abuja

72. Petroleum to be carried in tank vehicles
(1) The provisions of this Part shall apply to the transportation of petroleum in bulk—
   (a) on federal trunk roads outside the Federal Capital Territory, Abuja;
   (b) on all roads in the Federal Capital Territory, Abuja.
(2) No person shall carry petroleum in bulk by road except in a tank vehicle which complies with the provisions of this Part.
(3) No person shall tow a trailer behind a tank vehicle licensed for the carriage of petroleum products, unless a permit has first been obtained from the Director-General for the use of such a trailer on routes other than those specified; and if the trailer is to carry class "A" petroleum in bulk, the construction of the trailer and of the tank fittings must comply with the regulations covering tank vehicles and their fittings on self propelled bulk vehicles.

73. Maintenance and construction of tank vehicle
(1) A tank vehicle shall be maintained in good condition and have the words “Highly Flammable” conspicuously placed on the rare end of the tank in letters in contrasting colours not less than four inches high.
(2) An air space of at least two and a half percent of a tank's total capacity shall be left in a tank when
filled with petroleum.

(3) The body of a tank vehicle, including its fitting, shall be strongly constructed of fire-resisting material, and timber shall not be considered as a fire-resisting material except when used for tank mountings.

(4) The tank, if not a component part of the frame of the vehicle, shall be securely attached thereto.

(5) A tank vehicle shall be earthed at all times by means of a dragging chain or other device approved by the Director of Petroleum Resources.

74. Separate compartments in tanks

(1) When the capacity of a tank exceeds 1,200 gallons, the tanks shall be divided into self-contained compartment.

(2) No one compartment shall contain an amount of petroleum exceeding 1,200 gallons.

(3) A compartment the capacity of which exceeds 700 gallons, shall be fitted with baffle plates in such a manner that all possibility of excess surge is eliminated.

75. Engine Requirements

(1) The engine, fuel tank and electric batteries of a tank vehicle shall be effectively screened from the tank by a fire-resisting shield carried down to within fourteen inches of the ground and upwards to the level of the top of the tank, or if the roof of the cab is of fire-resisting construction and is without an opening, to the level of the top of the cap.

(2) A space of not less than six inches between the tank and the fire-resisting shield shall be left clear and unobstructed except for any part of the framework or valances used to screen the sides of the tank:

Provided that—

(a) the end of such valances shall be insulated from the shield by a layer of heat-resisting material; and

(b) the valances shall not be turned inwards so as to obstruct space between the tank and the shield.

(3) Notwithstanding the provisions of paragraph (1) of this regulation —

(a) the fuel tank of a vehicle may be situated behind the shield if —

(i) a fuel apparatus fixed in front of the shield is used to lift the contents from the fuel tank, and

(ii) the fuel tank is protected by the frame or by stout steel guards and the filling hole cover is provided with a lock;

(b) the fuel tank of a vehicle may be behind the shield if the fuel used in the engine does not give off a flammable vapour at a temperature of less than 150°F.

(4) Notwithstanding the provisions of paragraph (1) of this Regulation, the electric batteries of a vehicle may be situated behind the shield if the batteries are encased in fire–resisting material and are adequately ventilated and the terminals are securely fastened.

(5) The entire exhaust system of a tank vehicle shall be in front of the shield:

(6) A quick action cut-off valve shall be fitted to the engine fuel feed pipe in an accessible position, which shall be clearly marked:

Provided that this paragraph shall not apply to a vehicle in which a gravity feed tank is not incorporated in the fuel-feed system and the fuel-feed pump is driven directly from the engine of the vehicle or by electricity with a cut off switch.

76. Filling pipe

(1) When a tank vehicle is equipped with one or more filling pipes each filling pipe shall carried down as near as may be to the bottom of the tank so that it provides at all times a liquid seal at the bottom of the pipe.

(2) The ventilating openings, if separated from the pipes, shall be covered with fine wire gauze of not less than 28 meshes to the linear inch.

(3) The draw-off pipes shall be fitted with strong and secure valve and screw or equally efficient caps and save where a syphon system of emptying the tank is used, with internal valves.

(4) Valves at the rear of the vehicle and valves at the side of the vehicle shall be enclosed in a strong locked box of suitable material or be provided with and protected by stout steel guards.

(5) All faucets of tank vehicles shall be made of non-sparking metal and fitted with drip caps.

77. Control of tank vehicles

(1) Tank vehicles shall be in the charge at all times of a competent person employed by the licensee.

(2) No unauthorized person shall be permitted to ride on the vehicle and no load other than package petroleum products shall be carried on the vehicle or separately in a trailer.

(3) The licensee of a vehicle used for the conveyance of petroleum spirit who employs any person in connection
with such conveyance shall furnish a copy of these Regulations to, or affix a copy thereof in some place where it can be conveniently read by any such person and shall take all other measures necessary to ensure that any such person is acquainted with and carries out the provisions of these Regulations.

78. Precautions against fire
   (1) Smoking and the use of naked lights shall not be permitted within sixty feet of a tank vehicle.
   (2) The tank vehicle shall not be halted within sixty feet of a fire or open flame.
   (3) No matches, mechanical cigarette lighter, or other means of making fire shall be either on the tank vehicle or by any person on the vehicle.
   (4) No can, drum, or other vessel containing petroleum spirit shall be carried separately between the cab and the tank of the vehicle.
   (5) An approved type of fire extinguisher shall be carried in an easily accessible position on every vehicle conveying petroleum spirit. All fire extinguishers shall be of approved quality, checked and fitted with a quick release device.
   (6) No repairs involving the use of naked lights shall be carried out unless the tank is emptied and a gas-free certificate obtained from a responsible representative of the owners.

79. Pipes to be kept closed
   (1) Except during filling or discharging into the tank, the filling pipe or manhole of a tank vehicle shall at all times be kept securely closed.
   (2) Except during the filling or emptying of the tank, the dipping pipe of a tank vehicle shall at all times be kept securely closed.
   (3) The fuel tank of a mechanically propelled vehicle shall not be filled or replenished with class “A” petroleum direct from a vehicle carrying class “A” petroleum in bulk.

80. Parking of tank vehicles on highway forbidden
   (1) No tank vehicle shall be parked on the highway.
   (2) Where a mechanical breakdown, or other cause, prevents a vehicle from leaving a highway, the driver shall remain with the vehicle and take all reasonable precautions to prevent a fire or other accident, and in particular, he shall see to it that —
      (a) two collapsible metal notice boards each bearing the word “DANGER” in red reflector glass are placed in the centre of the road, fifty yards ahead of, and fifty yards behind, the standing vehicle;
      (b) one red lamp is placed beside each of the boards mentioned in sub-paragraph (a) of this paragraph during the hours of darkness;
      (c) the fire extinguisher on the vehicle are removed, if necessary, and placed where they may be readily available if the vehicle catches fire.
   (3) The breakdown must be reported to the Police as soon as possible.

81. Special permits
   The Director of Petroleum Resources or the appropriate authority may, by the issue of a permit, exempt any vehicle specified in the permit from complying with all or any of the provisions of the Part in respect of one journey specified in the permit.

82. Garaging of tank vehicles
   1 The premises in which a tank vehicle is usually kept shall be maintained in a clean condition, free from grass, weeds and all flammable material of any description.
   2 Approved type fire extinguishers shall be kept on such premises and maintained at all times in readiness for immediate use.
   3 Notices prohibiting smoking, the lighting of matches and the carrying of unprotected lights shall be fixed in a prominent position in and about such premises.

83. Protection against theft
   The licensee shall ensure that—
      (a) the premises where the tank vehicle is kept are secured in such a manner as to prevent the unlawful entry of any person; and
      (b) the vehicle, when garaged on the premises, is protected against interference by unauthorised person.

84. Inspection of tank vehicles and garages
   An officer authorised by the appropriate authority, or by the Director of Petroleum Resources, or a
police officer not below the rank of Inspector may, upon production of evidence of identity, enter
any premises, where a tank vehicle is usually kept, for purpose of inspecting such tank vehicle or the
premises, or both such vehicle and premises.

85. **Places where tank vehicles may be parked**
A tank vehicle may be parked in a suitable open space or in a yard or building.

86. **Safety precautions when loading and unloading**
(1) When loading or unloading a tank vehicle adequate earthing connection from such vehicle shall be
made by bonded hose or other means before commencing the operation.
(2) Such earthing connection shall not be disconnected until the operation ceases.
(3) The engine of such vehicle shall be stopped before making such earth connections and shall not be
restarted until such earth connections are disconnected:

Provided that this paragraph shall not apply where such vehicle is provided with self-pumping equipment driven
by a power take-off or a separate power unit which has been approved by the Director of Petroleum Resources.

87. **Unloading must be into approved storage tanks**
(1) No unloading of petroleum from any tank vehicle shall take place otherwise than into a licensed
storage tank.
(2) (i) The provisions of this Regulation shall have effect in relation to the transfer of petroleum from
the tank of a tank vehicle into a storage tank.
(ii) For the purpose of distinguishing any storage tank from any other such tank on the same
premises every such tank shall be clearly marked by or on behalf of the person licensed under
the Act, to keep petroleum in the tank (hereafter in this Regulation referred to as “the licensee”) with a particular number, and the grade of petroleum contained in the tank shall also be marked thereon, in such manner that the markings cannot be readily altered or obliterated.
(3) Every dipstick, not being permanently fixed to a storage tank and other device used for ascertaining
the quantity of the petroleum spirit for the time being contained in a storage tank, shall in a like
manner be marked by or on behalf of the licensee with the same number and grade as that with which
the storage tank in connection with which it is used is marked.
(4) Where the method of filling a storage tank is by means of a pipe leading from the tank to a filling
point not situated on, or immediately adjacent to, the tank itself, the said pipe shall in the like manner be clearly marked by or on behalf of the licensee, on or near the filling point, with the same number and grades that with which the tank is marked.
(5) Before delivery of petroleum spirit into a storage tank is begun, the licensee shall secure that some
competent person who is not the driver of, or any other person employed to be made, is in charge of
the storage tank for the purpose of the delivery.
(6) The person in charge of a storage tank shall so far as possible ensure that no petroleum overflows
from the storage tank or escapes at the filling point and the tank, and in particular, but without
prejudice to the generality of the foregoing provisions of this Regulation, shall not permit delivery
into that tank to begin —
(a) unless the tank has immediately before been tested with a dipstick or other suitable device and the
test has shown that the quantity of petroleum proposed to be delivered can safely be received by
that tank;
(b) in any case where the method of filling that tank is that referred to in paragraph (4) of this
Regulation, until he has taken all reasonable steps to secure that the connecting hose through
which the petroleum will be delivered is properly and securely connected to the filling point
of that tank, and so far as can be ascertained, all pipes through which the petroleum will pass
between the filling point and the tank are properly connected to each other, or as the case may
be, to the tank, and are otherwise in good order, and in any other case until he has taken all
reasonable steps to secure that the said connecting hose is properly and securely connected to
the filling point of the tank; and
(c) in any case where there is a dipping opening in the storage tank, until the dipping opening has
been securely closed, except in a case where the dip and fill pipe are combined.
(7) Proper records shall be kept of all deliveries into every storage tank.
(8) During the whole time of delivery into any storage tank, the person in charge thereof shall keep a
constant watch thereon.
(9) During the whole time of delivery from any vehicle the person attending that vehicle shall keep
constant watch on the tank of the tank vehicle from which petroleum is being delivered.
PART VI
Liquefied petroleum gases

88. Additional precautions
In this Part of these Regulations, the precautions to be observed in the handling and storage of liquefied petroleum gases are additional to those in any other regulations relating to class "A" petroleum and such other regulations shall be read accordingly.

89. Licences for importation of liquefied petroleum gases
(1) Subject to the prior approval in writing of the Director-General, the appropriate authority may issue licences for the importation of liquefied petroleum gases and for their storage at bulk installations and depots.
(2) No liquefied petroleum gases may be imported, and no bulk installations or depots for such gases may be operated, without such a license.
(3) All such licences shall expire on the 31 December of the year in which they are issued.

90. Storage of Liquefied Petroleum Gases
(1) Tanks for the storage of liquefied petroleum gases shall be designed for a working pressure corresponding to the vapour pressure at the highest temperature that the contents of the tanks are likely to reach.
(2) The storage tanks shall be fitted with one or more spring-loaded pressure relief valves which communicate directly with the vapour spaces of the tanks and the total discharge capacity of the pressure relief valves on each storage tank shall be such that it limits the pressure inside the tank to one hundred and twenty per cent of the design pressure under any conditions.
(3) A shut-off valve shall not be installed between a pressure relief valve and storage tank, except in cases where two or more relief valves are fitted to one tank and the shut-off valves are interlocked so that when one is shut the other is fully open and in any such cases the discharge capacity of the relief valve open to the tank shall meet the requirements of paragraph (2) of this Regulation; and if it is found impracticable to interlock shut-off valves as in the case where safety-relief valves may be locked in the open position by means of padlocks, the keys of the padlocks shall be retained by a responsible member of the staff who shall ensure that only one shut-off valve is closed at one time.
(4) All safety valves shall be fitted with vent pipes discharging vertically upwards at a minimum height of six feet about the top; and the vent pipes shall be fitted with loose-fitting rain caps and be drained at the bottom, the drain holes being located so as not to permit impingement of vapour or liquid on the surface of the storage tank.
(5) Each storage tank shall be fitted with a pressure gauge and devices for measuring the liquid content and its temperature, and the maximum quantity of liquefied petroleum gas filled into any one tank shall be such that at the maximum operating temperature it will not occupy more than ninety eight per cent of the capacity of the storage tank.
(6) Drain-cocks or other shut-off valves which communicate direct with the outer atmosphere shall be fitted with caps or blank flanges in which a hole having a maximum diameter of one eighth of an inch shall be drilled, thereby restricting the flow from the valve and minimizing the danger caused by careless operation.
(7) Storage tanks shall be painted in light colours.
(8) No storage tank shall be filled with liquefied petroleum gas having a vapour pressure greater than that of the petroleum product for which the tank is designed.

91. Pipe and fitting
(1) Pipeline layouts for use with storage tanks shall be suitably constructed according to recognized practice, with pipelines, valves and pipe fittings conforming to sound engineering practices and cast iron valves and fittings shall on no account be used.
(2) Where it is possible for any liquefied petroleum gas in its liquid phase to be trapped between two valves, a pressure relief valves shall be fitted notwithstanding that the space between the valves may be equipment such as a pump casing of a meter.
(3) Excess flow valves shall be fitted as necessary to prevent the loss of liquefied petroleum gases from storage tanks and transport tanks, and especially to protect points where flexible hoses are used.
(4) Remote controlled hydraulically operated shut valves shall be fitted to each storage tank.

92. Container filling sheds
(1) Containers shall be filled with liquefied petroleum gases only in buildings reserved exclusively for these products; and the floors of such buildings, which shall have a non-sparking surface, shall be at ground
level or raised platform height. If raised to platform height, the space under the platform may be left open on all sides to allow free ventilation or may be filled in. The space, if left open, shall not be used for any purpose other than ventilation and shall be kept free from rubbish. Pits in the floor shall be filled in solid to obviate the danger of gas accumulation and drains shall be provided with a gas-liquid separator situated outside the building.

(2) Filled containers shall not be stored in the container-filling bay. If it is essential that the same structure be used for storage and filling, fire proof wells shall be installed to separate the two operations.

(3) Container filling operations shall be carried out at least 75 feet from any open fire and not less than fifty feet from any storage tanks and installation boundary, or in respect of any other petroleum product at the shed.

93. Containers

(1) The quantity of liquefied petroleum gas to be filled in any container shall not occupy more than ninety five per cent of the total capacity at a temperature of 65 or 150°F.

(2) All containers shall be completely emptied before refilling.

(3) After filling a container, all valves shall be tested to ensure that they are free from leaks

(4) No containers shall be vented to the atmosphere of the filling shed, and if it is necessary to vent the contents of a full or partially full containers, it shall be removed to a safe place for this purpose:

Provided that a suitable vent line may be connected to carry the vented gases away from the filling shed for dispersal in safe place.

(5) Before filling the containers they shall be visually inspected for damage caused by denting or corrosion and for faulty valves, and they shall also be checked to make sure that they are of a type suitable for the particular product it is proposed to fill into them.

94. Charging containers

(1) Every reasonable precaution shall be taken to ensure that valves and fittings on containers are in sound condition and that the containers are free from water, air or foreign matter; and on inspection of empty containers shall include a check on weight and an examination of the name-plate to confirm the rating to be correct to specification for the proposed ratio.

(2) When valves are found to be open position or in a damaged condition, special ventilation measures shall be taken to remove any gas, air moisture present in the container.

(3) Full containers shall be inspected by checking the weight and testing the container valves, and on completion of the inspection the valves shall be sealed.

(4) A suitable arrangement shall be provided to enable containers to be safely vented should it be necessary to reduce the contents or to effect repairs.

(5) Relief valves shall be fitted in the filling lines at any point where liquid may be trapped between closed valves. Discharge from relief valves shall not vent to atmosphere inside buildings.

95. Handling maintenance and test

(1) Containers shall be handled with great care at all times and if the valves protective cover is detachable, it shall be replaced when the container is not in use.

(2) Lubricants and joining compounds shall be resistant to liquefied petroleum gas, water and heat.

(3) When containers are not in use, outlet valves shall be kept tightly closed even if the containers are considered to be empty.

(4) At intervals not exceeding five years, containers shall be hydraulically tested to one and a half times the working pressure and the date of the last, the number of the container and the test pressure shall be painted on the container and recorded in a log book kept for the purpose by the licensee.

96. Pipes and hoses

(1) Valves, unions and hoses used for container filling shall be resistant to the solvent action of liquefied petroleum gases; and they shall be designed for a bursting pressure of five times the maximum pressure they will have to carry in service.

(2) The hose shall be provided with a union for attachment to the supply pipe and a quick closing valve at the end to which the container is coupled; and the hoses, complete with unions and valves, shall be examined visually daily and tested hydraulically at monthly intervals, to twice their working pressure.

97. Static electricity

All filling points, lines and connections, shall be electrically bonded and earthed, and the resistance of the earth shall not exceed ten ohms.
98. Fire precautions
(1) Dry powder fire extinguishers shall be kept readily available for use in connection with any liquefied petroleum gas installation in case of fire.
(2) Installations shall be provided with a water supply for fire-fighting and gas storage tanks shall be fitted with water spray system utilizing “Fog nozzles” or similar devices.

PART VII
Fuelling of aircraft

99. Precaution while fuelling aircraft
(1) This regulation and the next two succeeding regulations shall have special application to the fuelling of aircraft.
(2) In addition to any other regulation—
   (a) Before commencing fuelling, fire extinguishers shall be placed in readiness so as to be accessible for immediate use in an emergency;
   (b) In no circumstance shall aircraft engines be turned over during fuelling and all ignition switches must be in the off position;
   (c) No smoking or naked lights shall be allowed anywhere on the apron or tarmac and within fifty feet of the aircraft;
   (d) Fuelling of aircraft shall not be undertaken when passengers are on board except in accordance with procedures ensuring the safety of person and property agreed between the aircraft owner or operator and the fuelling agency and approved by the Controller of Ground Service, Federal Ministry of Aviation;
   (e) Fuelling of aircraft shall not be undertaken whilst maintenance work, likely to cause a spark, is in progress;
   (f) “No smoking” warning notices shall be provided and fixed in prominent positions in the vicinity of the fuelling operations as to be visible to passengers and other persons in that vicinity;
   (g) Fuelling shall cease immediately if any other aircraft runs up its engines within fifty feet of the aircraft,
(3) While fuelling is in progress —
   (a) The fuelling vehicle shall be provided with an adequate number of fire extinguishers;
   (b) No other vehicles shall normally be allowed in the vicinity and if it is for a vehicle to be in the vicinity it shall be so placed as not to obstruct the exit of the fueller, and its engine shall be stopped and not be restarted during the fuelling operation.
(4) The provisions of this regulation shall apply to any de-fuelling operation.

100. Earthing and bonding
During any fuelling or de-fuelling operation, an aircraft shall be earthed with an earthing device of an approved type and earthing and bonding wires shall be regularly tested and examined.

101. Operation of fuelling vehicles
(1) During operation for the purpose of regulation 98 of these Regulations, fuelling vehicles shall be attended by at least one competent person.
(2) Special care shall be taken to avoid spilling of over flow, and this occurs the following action shall be taken –
   (a) engines of the fuelling vehicles shall be stopped;
   (b) any fuelling vehicle in the area of the operation shall be towed away by means of a long-tow rope attached to a vehicle in a safe area;
   (c) operations shall not recommence until all spilled fuel has been cleared and the area is vapour-free;
   (d) if the fuelling vehicle itself is affected by spillage, it shall be cleaned down and its engine started in a safe area.

102. Power to make further rules in respect of aircraft refuelling
The Controller of Ground Service of the Federal Ministry of Aviation may make such other rules, as he may think fit for the storage and handling of petroleum and the refuelling of aircraft on the ground in aerodrome areas.

PART VIII
General

103. Form of licence
Licences granted under these Regulations shall be in the forms set out in the Schedule to these Regulations.
[[Schedule, forms A, B, C, D and F]
104. Revocation of licences

Any license granted under these Regulations may be revoked at any time by the Director-General or by the officer who granted it, if he is satisfied that the licensee or any person in his employ has infringed any of the conditions of the license or any provision of these Regulations.

105. Right to enter and inspect premises in case of offences

Notwithstanding the provisions of regulation 43 of these Regulations, any officer authorized by the appropriate authority or by the Director of Petroleum Resources or a police officer not below the rank of Inspector may, at any time enter and inspect any premises in which he has reason to suspect that a breach of these Regulations is being committed.

106. Offences

(1) Any person who—
   (a) commits a breach of any of the provisions of these Regulations,
   (b) fails to comply with any provisions of these Regulations, any direction given there under or any condition of any license issued there under,
   (c) fails to permit any inspection authorized under these Regulations, or
   (d) makes a return required by these Regulations, or wilfully furnishes information so required, which is in any respect false or insufficient,

shall be guilty of an offence and be liable on summary conviction to a fine not exceeding N50,000 or to imprisonment for a term not exceeding six months or to both, and when the offender is the holder of a license granted under these Regulations his license may be cancelled by the Director-General.

[S. I. 4 of 1996]

(2) The master of any ship or a person in charge of—
   (a) any boat or other vessel, as defined by the Merchant Shipping Act; or
   [Cap. M11.]

   (b) any motor vessel, in relation to which any breach or non-compliance within the meaning of paragraph (1) of this regulation occurs, shall be guilty of an offence and on summary conviction shall be liable to a fine not exceeding N250,000 or to imprisonment for term not exceeding six months or to both, in addition to the various penalties laid down in Section 46 of the Merchant Shipping Act.

[S. I. 4 of 1996 and Cap. 11.]

107. Savings

Nothing in these Regulations shall be construed as enabling any person to be held guilty of an offence thereunder of any act or omission that did not, at the time when it took place, constitutes such an offence.

SCHEDULE

Forms of Licences

Form A
[Regulation 103]

FEDERATION OF NIGERIA

Licence to store class "A" petroleum only* or class "A" and class "B" petroleum together

<table>
<thead>
<tr>
<th>No.</th>
<th>Fee</th>
</tr>
</thead>
</table>

License is hereby granted to................................................................. for the storage in the premises described below—

of................................................................. gallons class "A" petroleum only

of................................................................. gallons in all petroleum both "A" and class "B"

subject to the conditions prescribed by the Petroleum Regulations.

This license shall expire on the 31 day of December next following the date of issue hereof and may be renewed on application being made for this purpose not less than thirty days previous to the date of expiry.

Description of the premises above referred to:.................................................................

.................................................................

Date of Issue

Signature of Officer appropriate authority
Rank or office......................................................

This license is issue subject to the provisions of the Petroleum Regulations (Cap. P10), of which the licensee admits cognizance.

* Delete whichever is not applicable

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**Form B**

[Regulation 103]

FEDERATION OF NIGERIA

Licence to store petroleum other than class “A” Petroleum

No...........................................................    Fee..............................................................

License is here by granted to.................................................................................................................................................

for the storage in the premises described below, of .......................................................................................... gallons of petroleum other than class “A” petroleum, subject to the conditions prescribed by the Petroleum Regulations (Cap. P10).

This license shall expire on the 31 of December next following the date of issue hereof, may be renewed on application being made for this purpose not less than thirty days previous to the date of expiry.

Description of the premises above referred to:...................................................................................................................

Date of Issue                                                         Signature of Officer of appropriate authority

Rank or office ....................................................................

This license is issued subject to the provisions of the Petroleum Regulations (Cap. P10), of which the holder admits cognizance.

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**Form C**

[Regulation 103]

FEDERATION OF NIGERIA

Licence to store class “A” or class “B” Petroleum in underground storage tanks

No...........................................................   Fee..............................................................................

License is here by granted to.................................................................................................................................................

for the storage of an underground tank on the premises described below and shown on the plan annexed hereto of .......................................................................................... gallons of class “A” or class “B” petroleum subject to the conditions of the Petroleum Regulations (Cap. P10)

This license shall expire on the 31 December next following the date of issue hereof, may be renewed on application being made for this purpose not less than thirty days previous to the date of expiry.

Description of the premises above referred to:...................................................................................................................

Date of Issue                                                         Signature of Officer of appropriate authority

Rank or office ....................................................................

This license is issued subject to the provisions of the Petroleum Regulations (Cap. P10), of which the holder admits cognizance.
Form D
[Regulation 38]
FEDERATION OF NIGERIA

Licence to store class "A" Petroleum in bins or pits

No...........................................................   Fee.................................................................
License is here by granted to.................................................................
For the storage in ................................................................. gallons of class "A" petroleum subject to the conditions of the Petroleum Regulations.

This license shall expire on the 31 December next following the date of issue hereof, and may be renewed on application being made for this purpose not less than thirty days previous to the date of expiry.

Description of the premises above referred to:.................................................................

Date of Issue                                         Signature of Officer of appropriate authority

Rank or office .................................................................

This license is issued subject to the provisions of the Petroleum Regulations (Cap. 350) (Cap. P10), of which the holder admits cognizance.

*Here state whether bins or pits and state how many of each.  L.N. 71 of 1967

Form E
[Regulation 37]

FEDERATION OF NIGERIA

Licence to store petroleum in bulk not being class "A" Petroleum

No...........................................................   Fee.................................................................
License is here by granted to.................................................................
for the storage in the premise described below, and shown on the annexed hereto, of .............................................. gallons of petroleum in bulk, other than class "A" petroleum subject to the conditions prescribed by the Petroleum Regulations (Cap. P10).  

This license shall expire on................................................................. and may be renewed on application being made for this purpose not less than thirty days previous to the date expiry.

Description of the premises above referred to:.................................................................

Date of Issue                                         Signature of Officer of appropriate authority

Rank or office .................................................................

This license is issued subject to the provisions of the Petroleum Regulations, of which the holder admits cognizance.
Form F
[Regulation 39]

FEDERATION OF NIGERIA

Licence to store class “A” petroleum in bulk

No........................................................... Fee..............................................................................
For the storage in the premises described below and shown on the plan annexed hereto, of..........................
........................................................................... gallon of class “A” Petroleum in bulk subject to the conditions prescribed by the
Petroleum Regulations.

This license shall expire on ............................................................... and may be renewed
on application being made for this purpose not less than two months previous to the date of expiry. –

Description of the premises above referred to:..............................................................................

.................................................                              ...............................................................................

Date of Issue Signature of Officer of appropriate authority

Rank or office ...............................................................

This license is issue subject to the provisions of the Petroleum Regulations, of which the holder admits cognizance.


Form G
[Regulation 56 (1)]

FEDERATION OF NIGERIA

Licence for the transport of petroleum in bulk by means of a pipeline

No.............................................................................................................................................................................................
License is hereby granted to ..................................................................................................................................................

For the transport of petroleum by means of the pipelines described below, subject to the Petroleum Act and the
regulations made thereunder and to the further conditions on the back of this license.

.................................................                              ..............................................................................

Date of Issue Signature of Officer of appropriate authority

Rank or office ...............................................................
DESCRIPTION OF PIPELINES
(Insert description of pipelines)

1. The route of underground pipeline shall be indicated in a manner approved by the Director of Petroleum Resources.
2. Accurate safety drawing shall be kept showing the position of the pipelines and the location of the control valves.
3. Underground pipelines shall be protected against corrosion when in the opinion of the Director of Petroleum Resources, soil conditions render such protection necessary.
4. All pipelines shall be patrolled and inspected once in every twenty-four hours or at such longer intervals as the Director of Petroleum Resources may approve and in addition at times when pumping operations are taking place, by competent persons appointed by the licensee of the pipeline and details of the inspection shall be recorded in a log book provided for that purpose. When patrolling by night, flame-proof hand lamps shall be used by such persons.
5. The premises occupied by pipelines when under the control of the licensee shall be kept in a clean condition reasonably free from grass, weeds and all flammable material.
6. Lines shall bear colour markings or other identifications to indicate the product or service for which the line is used.
7. When required by the Director of Petroleum Resources or an officer authorised in writing by him in that behalf all unburied pipelines outside licensed storage areas shall be run in open trenches or between dwarf walls or embankments not less in height than twice the diameter of the largest pipe, and fire-stops (each consisting of two cross-walls at not less than 36 inches apart with the space between filled with sand) shall be provided at intervals of not more than 300 feet along the full length of each line.
8. Where pipelines run in a sleeve through a tank bund or other structure used to retain oil within the confines of a given area, the annular spaces between the pipes and the sleeves shall be filled in to render them oil-tight.
9. Blanks used to separate two sections of pipelines shall be of adequate thickness and have conspicuous or projecting tabs.
10. Stays, guyropes or tackle of any description shall not be attached to the pipelines.
11. Pipework shall not be carried across footpaths unless adequate crossing facilities with reasonable and safe access is provided.
12. Steam lines shall be protected against accidental contact by operating staff or other persons.
13. Provision shall be made in the laying of pipelines to allow for maximum expansion and contraction of the lines and their contents, and for jarring and vibration of the lines and the ancillaries to which they are attached.
14. Pipelines passing under railways, roads and other points where loads may be applied on the pipe shall be enclosed in suitable load carrying sleeves or culverts or otherwise protected against injury and the ends of the protective sleeves or culverts shall be left exposed where practicable.
15. (1) Pipelines shall be tested in the presence of an inspecting officer before the lines are commissioned and thereafter at six monthly intervals or such longer interval as the Director of Petroleum Resources may in writing permit, or when required by an inspecting officer who shall give reasonable notice.
(2) All tests shall be properly recorded in a log book approved by the Director of Petroleum Resources kept by the licensee for that purpose and the tests shall consist of placing the line under a pressure of twice the working pressure or 120 lbs. per square inch (whichever is the higher) for a period of not less than thirty minutes during which period no less of pressure shall occur.
16. Where pipelines make a connection to the shell or bottom of a tank, or end at a jetty, the connection between a pipeline and a tank shall be sufficiently flexible to allow setting of the tank temperature expansion of the connection pipeline to the tank.
17. All fitting on underground oil pipelines shall be of steel.
18. Points shall be provided to which an inter-connection of pipelines can be made to enable a tank transfer of products to be effected in the event of an emergency.
19. Due precautions shall at all times be taken against fire including the maintenance of fire extinguishing appliances of approved type. Notices strictly prohibiting smoking, lighting of matches, and the carrying of unprotected lights shall be provided and fixed in prominent positions in and about the premises.
20. This premises when under the control of the licensee shall be efficiently protected against unauthorized approach or interference.
21. The premises and pipelines may be inspected at time by an officer of the authority issuing the licence or by a Police Officer not below the rank of Assistant Superintendent or by an inspector authorized by the...
Director of Petroleum Resources on production of evidence of identity.
The licensee shall immediately carry out all reasonable instruction of such inspecting officers.

22. This license shall be liable to be forfeited for any contravention of the Petroleum Act or of any regulations made thereunder or of any of the conditions contained in this license.

Form H
[Regulation 57 (1)]

FEDERATION OF NIGERIA
Licence for transport of petroleum in bulk by barge

No...........................................................

License is hereby granted for the transport of petroleum in bulk by barge as described below, subject to the provisions of the Petroleum Act and the regulation made thereunder, and to the further conditions on the back of this license.

.................................................                              ................................................................................
Date of Issue                                                          Signature of Officer of appropriate authority

Rank or office ....................................................................

DESCRIPTION OF BARGE
(Description of barge above referred to)

1. Transport of petroleum in bulk by barge shall be only means of special tank barges of a design approved by the Government Inspector of Shipping.
2. No barge will be approved unless built in accordance with recognised rules and under the supervision of a responsible surveyor.
3. The tanks in the barges shall be maintained in good condition and free from leakage, each tank shall be fitted with horizontal bar under each sight port to indicate when the tank is ninety seven per cent full. An air-space of not less than three per cent of tank shall be left when filling. All inlets and outlets shall be properly secured and gas tight.
4. Tank barges shall be in charge at all times of a competent person or persons authorized by the licensee. No unauthorized person shall be permitted to travel on the barge. Smoking and the use of naked lights shall not be permitted on or in the vicinity of the barge.
5. Tank barge shall be loaded and unloaded in accordance with rules approved by the Government Inspector of Shipping.
6. There shall be exhibited at not less than six feet above the deck on every tank barge containing petroleum area flag by day and a red lamp of approved safety design by night.
7. No tank barge shall be loaded or unloaded between sunset and sunrise.
8. Save as provided in paragraph 6, no fire or light of any description and no matches or any detonating articles or substance shall be, or shall be, or shall be taken, on board any tank barge when Class “A” petroleum is on board.
9. Due precautions shall at all times be taken against fire including the maintenance of fire extinguishing appliances of approved design. Notice strictly prohibiting smoking, lighting of matches, and the carrying of unprotected lights shall be provided and fixed in prominent positions in the barge.
10. Every tank barge, other than a motor-propelled barge, having class “A” petroleum on board shall be towed by a tug and, if steam is the motive power of such tug, the funnel top or tops shall be fitted with efficient spark protectors.
11. The tanks and bilge of every tank barge which has carried Class “A” petroleum shall, immediately after the barge is unloaded, be thoroughly cleansed of all traces of such petroleum and thoroughly ventilated.
12. The tank barge may be inspected at any time by the Government Inspector of Shipping or by an officer authorized by him or a police officer not below the rank of Assistant Superintendent or by an Inspector authorized by the Director of Petroleum Resources on production of evidence of identity.
13. This license shall be liable to be forfeited for any contravention of the Petroleum Act or of any regulations made thereunder or of any of the conditions contained in this license.
Form I  
[Regulation 56]

FEDERATION OF NIGERIA

Licence for transport of petroleum in bulk by road or rail

No...........................................................

License is hereby granted for the transport of petroleum in bulk as described below, subject to the provisions of the Petroleum Act and the regulations made thereunder, and to the further conditions on the back of this license.

.................................................                              .............................................................................
Date of Issue                                                           Signature of Officer of appropriate authority

Rank or office ..............................................................................

DESCRIPTION OF PIPELINE  
(Description Means of Transport Above Referred to)

Conditions of License

1. Transport of petroleum in bulk by road shall be only by means of special tank vehicles of a design approved by an Engineer appointed by the appropriate authority.
2. Transport of petroleum in bulk by rail shall be only by means of special railway tank wagons of a design approved by the general manager of the Nigerian Railway Corporation.
3. The vehicle or wagons shall be maintained in good condition and free from leakage. They shall be conspicuously labelled with the words "HIGHLY FLAMMABLE". An air-space of not less than two and one-half per cent of tank shall be left when filling. All inlets and outlets shall be properly secured and gas-tight.
4. Tank vehicles shall be in charge at all times of a competent person or persons authorised by the licensee. No unauthorized person shall be permitted to ride on the vehicle. Smoking and the use of naked lights shall not be permitted in the vicinity of the vehicle. The vehicles shall not be halted within sixty feet of a fire or open flame.
5. Tank vehicles shall be loaded or unloaded in accordance with rules approved by the Director of Petroleum Resources for each design of vehicle.
6. Tank wagons shall be used only under conditions prescribed by the general manager, Nigerian Railway Corporation.
7. No tank vehicle shall be loaded or unloaded between sunset and sunrise except where flood lighting or adequate electric illumination is available.
8. The premises occupied by tank vehicles and tank wagons under the control of the licensee shall be kept in a clean condition reasonably free from grass, weeds and all flammable material.
9. Due precautions shall at all times be taken against fire including the maintenance of fire extinguishing appliances of approved type. Notices strictly prohibiting smoking, lighting of matches and the carrying of unprotected lights shall be provided and fixed in prominent positions in and about the premises.
10. The premises, tank vehicles and tank wagons when under the control of the licensee shall be efficiently protected against unauthorised approach or interference.
11. The premises, tank vehicles and tank wagons may be inspected at any time by any officer authorised by the appropriate authority or a police officer not below the rank of Assistant Superintendent or by an inspector authorised by the Director of Petroleum Resources on production of evidence of identity. The licensee shall immediately carry out all reasonable instructions of such inspecting officers.
12. This licence shall be liable to be forfeited for any contravention of the Petroleum Act or of any regulations made thereunder or of any of the conditions in this licence.

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Form J
[Regulation 64 (1)]

FEDERATION OF NIGERIA

Licence to store petroleum in the open air

No........................................................... Fee.................................................................

License is hereby granted to .........................................................................................................................for the storage

in the open air on the premises described below and shown on the plan annexed hereto of .................................
............................................................................................... of class “A” petroleum conditions prescribed by the Petroleum Regulations.

This licence shall expire on the 31 December next following the date of issue thereof and may be renewed on
application being made for this purpose not less than two months previous to the date expiry.

[ L.N. 71 of 1997 ]

Description of the premises above referred to-

........................................................................................................................................................................

Date of Issue...................................................................................................................................................

Signature of Officer of appropriate authority ...................................................................................................

Rank or office .................................................................

This licence is issued subject to the provisions of the Petroleum Regulations, of which the holder admits
cognizance.

[ L.N 71 of 1967 ]
PETROLEUM REFINING REGULATIONS 1956

ARRANGEMENT OF REGULATIONS

REGULATION

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4. Appointment of a Manager.

PART II

Duties of a manager: General

5. Manager to ensure compliance with provisions of regulations.
6. Appointment of competent persons.
7. Observance of good refining practices.
8. Refinery areas to constitute restricted areas.
10. Observance of fire and safety regulations.
11. Warning notices.
13. Medical facilities and first aid services.
14. Protection against dangerous parts of machinery.
15. Training inexperienced workers.
16. Instructions on emergency procedures.
17. Reporting of accidents.
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PART III

Reports

19. Monthly statements on production, etc.
20. Annual report.
21. Books, records, Etc. to be made available to the Director.
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PART IV

Miscellaneous

23. Construction of plants, etc.
25. Entry into storage tanks, etc.
27. Disposal of residues, sludges, rusts, etc.
28. Storage tanks to be calibrated.
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32. Pressure vessels.
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34. Handling and blending of dangerous additives and chemicals.
35. Storage capacities.
36. Spare parts.
37. Spillage in the refinery.
38. Analysis of imported stock for use in the refinery.
39. Samples and specimens.
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41. Fires and explosions.
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Supplemental

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SCHEDULE

PETROLEUM REFINING REGULATIONS 1956
Under Section 9
[L. N. 45 of 1974]

Commencement [22nd July, 1974]

PART I
Procedure relating to establishment, etc. of Refinery

1. Form of application for licence to construct or operate a refinery, etc., Form A
   (1) Application for a licence to construct or operate a refinery shall be made to the Minister and shall be in
       Form A in the Schedule to these Regulations.
   (2) Every such application shall be accompanied by at least three copies of a detailed study of the project
       and the prescribed fee which shall not be refundable.

2. Licence to construct or operate a refinery. Form B
   A licence to construct or operate a refinery shall be in Form B in the Schedule to these Regulations and
   may be granted subject to such terms and conditions as the Minister may prescribe.

3. Enlargement or modification of existing refinery
   (1) No changes shall be made in the installations of a refinery with a view to increasing its capacity except
       with the prior approval in writing of the Minister and upon payment of the prescribed fee.
   (2) Application to enlarge, alter or add to any refinery or any of the plants therein or change the normal
       use of the component units or plants of any refinery or part thereof when by so doing such change shall
       create a substantial alteration to the capacity of the said refinery for processing crude oil and related
       products shall be in Form C in the Schedule to these Regulations and shall be accompanied by the
       prescribed fee which shall not be refundable.

4. Appointment of a Manager
   (1) Work in condition with the construction and operation of a refinery shall be conducted under the
       direction of a manager who shall have continued charge of all operations authorised by the licence
       under which he is operating.
   (2) Every licensee shall notify the Director in writing of the name and address of the Manager and of any
       subsequent changes thereof.

PART II
Duties of a manager: General

5. Manager to ensure compliance with provisions of regulations
   It shall be the duty of the Manager to ensure that the provisions of these Regulations are fully complied with
   in relation to his refinery.

6. Appointment of competent persons
   The Manager shall appoint in writing competent persons for the purpose of general supervision of all
operations in the refinery including all aspects of construction, maintenance and refinery and shall submit for the approval of the Director each appointment and subsequent changes.

7. **Observance of good refining practices**
   Where no specific provision is made by these Regulations for any aspect of the construction, operation and maintenance of a refinery, practices conforming with international standards shall be observed subject to the approval of the Director.

8. **Refinery areas to constitute restricted areas**
   (1) All refinery areas shall constitute restricted areas, the boundaries of which shall be clearly defined as specified in regulation 9 of these Regulations.
   (2) Only persons authorised by the Manager shall be admitted into such restricted areas.

9. **Erection of fences**
   (1) Adequate and secure boundary fencing shall be provided around all restricted areas, tank farm, products' offtake facilities and the jetty; and access to these areas shall be through recognised entrances so controlled as to prevent the entry of unauthorised persons and vehicles.
   (2) All vehicles shall be confined to approved routes within the refinery area except in regard to special cases where specific vehicles are authorised by the Manager to deviate from such approved routes.

10. **Observance of fire and safety regulations**
    (1) A competent person shall be responsible for ensuring the observance of all fire and safety precautions within restricted areas.
    (2) There shall be provided to the satisfaction of the Director, adequate means designed to extinguish fire and to control effectively the spread of fire and explosions.
    (3) A central fire station shall be provided with suitable equipment and manned by personnel who can immediately proceed to the scene of a fire or explosion and effectively make use of the available equipment to put the fire or explosion under control.
    (4) Each item of the fire fighting equipment shall be inspected and tested at appropriate intervals by a competent person appointed for the purpose; and the last date of such inspection shall be painted on the appliance and the result of such inspection shall be entered in a log book specifically kept for that purpose; all such entries shall be duly signed by the competent person.
    (5) Operational personnel employed in the refinery area shall be instructed in the use of fire fighting equipment. Instructions to personnel in case of fire shall be clearly and concisely expressed in writing and prominently displayed.
    (6) Easy access to strategic points for mobile equipment shall be provided and shall at all times be kept free.
    (7) The Manager shall ensure that no person smokes or ignites any fire or flame in any refinery area except in places set aside for the purpose.
    (8) Except with the permission of the manager no person shall have in his possession while he is in any refinery area any matches or mechanical lighters or similar devices or any lamp or light or any ignited or ignitable matter.
    (9) Whenever a fire or explosion occurs in a refinery area the competent person in the fire station shall be informed immediately and steps shall be taken to extinguish the fire and control further explosion.

11. **Warning notices**
    (1) “No Smoking” signs shall be conspicuously displayed in restricted areas.
    (2) Warning notices regarding the prohibition of entry by unauthorised persons, naked lights and other hazards shall be conspicuously displayed.

12. **Safety clothing and appliances**
    (1) The manager shall provide, for all persons working in the refinery areas in connection with crude oil or any refined product, suitable protective clothing, equipment and appliances of a pattern approved
by the Director.

(2) The Manager shall instruct all workers on the importance and use of safety clothing and appliances issued to them and shall enforce their use. He shall make arrangements to ensure that equipment is always kept in good condition.

(3) Quick-operating automatic water showers ready for instant use and tested daily shall be provided in the vicinity of caustic vessels and pumps and in such other appropriate accessible places as the Director may, from time to time, direct.

(4) Eye-wash bottles and automatic fountains shall be located in strategic and conspicuous locations in the refinery area.

13. Medical facilities and first aid services

(1) Adequate first aid and emergency medical facilities shall be provided to deal with all cases arising from any accident occurring in a refinery area.

(2) First aid boxes or cupboards shall be placed under the charge of competent persons who shall always be readily available during working hours, and a notice shall be affixed in every work-room stating the name of the person in charge of the first aid box or cupboard provided in respect of any area and for any shift period.

14. Protection against dangerous parts of machinery

All dangerous or moving parts of any machinery shall be securely fenced or guarded whether situated in an engine house or not, so however that, in so far as the safety of a dangerous part of any machinery cannot by reason of the nature of the operation be secured by means of fixed guard, the requirements of these Regulations shall be deemed to have been complied with if a device is provided which satisfactorily warns or protects the operator from coming in contact with that part.

15. Training inexperienced workers

No person shall be allowed to work with any machinery or in any process, which is liable to cause or result in bodily injury to him or endanger his health, unless he has been fully instructed as to the danger likely to arise therefrom and the precautions to be observed therewith; and

(a) he has received sufficient on-the-job training on the machinery or in the process; or

(b) he is under the adequate supervision of a person who has a thorough knowledge and experience of the machinery or process and who shall be responsible for the safety of the trainee.

16. Instructions on emergency procedures

(1) The Manager shall provide instructions regarding procedures to be followed during an emergency and shall ensure that each worker knows his functions under such instructions.

(2) The Manager shall send a copy of such instructions and any subsequent alterations thereto to the Director.

Accidents

17. Reporting of accidents

(1) Where any accident occurs in a refinery which results in loss of life or serious injury written notice of the accident, in Form D in the Schedule to these Regulations shall forthwith be sent by the Manager to the Director and copied to the nearest inspector by the Manager.

(2) The Director may, if he so desires, order an inquiry to be held by the inspector.

(3) For the purpose of this regulation, serious injury includes any injury involving the loss of or impairment in the use of any limb or other part of the body or one which results in such incapacity (whether temporary or permanent) that the sufferer is incapable of continuing the work on which he was engaged immediately before he suffered the injury.

(4) A record shall be kept of all other injuries in the refinery and any such record shall be made available to an inspector on demand.

(5) The provisions of this regulation shall be additional to the requirements contained in the Factories Act, Work-men's Compensation Act and the Electrical Supply Regulations in the case of an accident or fire involving electrical apparatus or equipment.

[Cap. F1, W6 and E7]
18. **Inquiries into accidents**

(1) Any inspector holding an inquiry under this Part shall, for the purposes of the inquiry, have power to do the following things, that is to say—

(a) to summon witnesses;

(b) to call for the production of relevant books and documents which may be necessary to ascertain whether the provisions of these Regulations have been complied with;

(c) to examine any person or witness, either alone or in the presence of any other person, and to require any such person or witness to sign a declaration of the truth of the matters respecting which he is so examined;

(d) to exercise such other powers as may be necessary for carrying these Regulations into effect.

(2) A notice requiring a witness to appear at an inquiry to be held pursuant to these Regulations shall be in Form E in the Schedule to these Regulations.

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**PART III**

**Reports**

19. **Monthly statements on production, etc.**

(1) The Manager shall forward to the Director, not later than twenty-one days after the end of each month, a refinery statement for the month in a form which the Director may from time to time, direct.

(2) The statement shall contain—

(a) a report of important occurrences, technical or otherwise, in the refinery during the month;

(b) information on the duration of any shut-down and any major work done during the shut-down including information on any plant taken out of commission during the shut-down and the reasons for the work done;

(c) information covering inspection report on any installation in the refinery;

(d) the latest estimates of anticipated monthly production for the next three months explaining the reason or reasons for any increase or decrease in production generally or in a specific product or products;

(e) a brief summary of the results of test runs, and experiments carried out during the month in the normal course of operations on any section of the refinery installation.

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20. **Annual report**

Not later than two months after 31st December of every year, the Manager shall forward to the Director three copies of an annual report reviewing the activities for the previous year and details of proposed activities for the current year; and such report shall be prepared in a form acceptable to the Director.

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21. **Books, records, Etc. to be made available to the Director**

The Manager shall make available to the Director or to his duly authorised representative such books, files and technical data as are relevant to the technical operation of the refinery.

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22. **Special reports**

The Directory may, from time to time, call for special reports on any aspect of the refining operations which may or may not have otherwise been provided for in this Part of these Regulations.

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**PART IV**

**Miscellaneous**

23. **Construction of plants, etc.**

Before any plant installation or related facility under the refinery licence is constructed or assembled for any purpose, the Manager shall forward to the Director for approval all relevant details regarding the design specifications, purpose and location of the plant, installation or related facility including any programme of activities prior to the commissioning of the plant, installation or related facility.

24. **Storage tanks**

(1) All permanently placed storage tanks containing crude oil and any class or product shall be installed within a bund-wall capable of retaining the contents of the largest tank plus 10 per cent of the remaining tanks; and where there is only one tank the capacity of such bund-wall shall be sufficient to contain the
whole of the tank’s contents should the tank be emptied by leakage or otherwise.

(2) In addition, the tanks referred to in paragraph (1) of this regulation shall—
   (a) be fitted with access doors sufficiently large to enable easy access and with vents capable of relieving any excess pressure or vacuum;
   (b) have access to their roofs by means of a ladder or staircase of a type approved by the Director and all floating roof tanks shall have adequate wind girders;
   (c) have provision made for containing any leakage to prevent oil contaminating the water when located above water; and
   (d) be provided with efficient electrical earth connections independent of pipe connections, having an electrical resistance value not exceeding ten ohms when measured by an earth resistance tester of the “Megger” or similar type.

25. Entry into storage tanks, etc.
(1) Before permitting workmen to enter a tank which had previously contained petroleum products it shall be gas freed and the concentration of gas determined, and all feed and vent lines shall be disconnected and blanked off, and tank hatches shall be kept open.

(2) During tank cleaning operations adequate ventilation shall be previous inside the tank and, as work progresses, frequent tests shall be made to detect increases in gas concentration.

(3) If the gas concentration exceeds 0.05 per cent, gas masks shall be worn, tools shall be incapable of causing sparks, and hand lamps and torches used shall either—
   (a) be certified flame proof, group II, in conformity with British Standard 229; or
   (b) be constructed in compliance with the United States National Electrical Safety Code and the National Board of Fire Under-Writers National Electric Code for explosion proof electrical apparatus and equipment.

26. Operational safeguards in relation to storage tanks
The Manager shall ensure, especially where any tank in operation is being filled, that operational safeguards are used to avoid, so far as possible, exceeding the safe limit of fill applied to the particular tank under consideration.

27. Disposal of residues, sludges, rusts, etc.
Residues, sludges, rusts and similar matter from tanks which may have contained leaded petroleum products shall be disposed of according to good refining practices and only to such places as have been approved by the Director.

28. Storage tanks to be calibrated
(1) Before a tank is used for any storage, it shall be properly calibrated in the presence of an inspector or other representative of, and by a method approved by, the Director, and calibration tables on the tank shall be forwarded in duplicate to the Director by the Manager.

(2) If for any reason any tank which has been in use requires to be recalibrated, the calibration shall be done in the presence of an inspector or other representative of, and by a method approved by, the Director, and calibration tables on the tank shall be forwarded to the Director in duplicate by the Manager.

29. Storage of liquefied petroleum gases
(1) The design, construction and testing of the liquefied petroleum gas unit and storage shall be in accordance with the current requirement of standard practice of design and construction.

(2) The storage and handling of L.P.G. shall be in accordance with good refinery practices.

(3) The standard practice of design and construction and good refinery practices referred to in this regulation shall be such as are acceptable to, and approved by, the Director.

30. Construction and spacing of tanks
(1) Tanks of capacity less than 500 water tons shall be sited and placed in accordance with safety considerations. Due allowance shall be made for the nature of the product stored and its volume and the characteristics of the surrounding area.

(2) If the storage relates to class “A” or class “B” petroleum—
   (a) in normal design fixed roof tanks, the minimum distance—
      (i) between the perimeter of the tank and the outer body of the installation shall be the diameter
of the tank or twenty-five metres, whichever is the greater,
(ii) between tank and tank shall be the diameter of the smaller, or fifteen meters, whichever is less;
(b) in floating roof tanks, the minimum distance—
(i) between the perimeter of the tank and boundary of the installation, or
(ii) between tank and tank shall be not less than fifteen metres; and
(c) for the purposes of sub-paragraphs (a) and (b) of this paragraph, small tanks shall be considered
as one tank if sited together in groups not exceeding a combined capacity of 3,000 water tons, and
spaced according to the requirements of the locality and of operational needs.

(3) If the storage relates to liquefied petroleum gases, the minimum distance—
(a) from the boundary of the installation; or
(b) from open fires; or
(c) from class "A" and class "B" petroleum,
shall not be less than forty-five metres.

(4) A list of tanks, their gross capacities and their use shall be forwarded by the Manager to the Director.
If for any reason other than that of a production emergency a tank is to be altered in use, for a purpose
different from that for which it was designed, the Director shall be informed before such alteration is
effected, and if for any reason whatsoever a tank is to be altered in construction, the approval of the
Director shall be obtained before such alteration is effected.

31. Disruption to continuous operation. Form F
(1) The Manager shall notify the Director on Form F in the Schedule to these Regulations not less than
thirty days before any planned shut-down.
(2) The Manager shall on the occurrence of any operational incident resulting in the shut-down of the
refinery or any part thereof or resulting in putting out of use of any plant, machinery or installation
or on the occurrence of any other emergency resulting in shut-down or putting out of use, forthwith
notify the nearest inspector in writing of the occurrence stating—
(a) the reasons for the shut-down or putting out of use, its estimated duration and its possible effect on
the production commitment of the refinery; and
(b) the steps, if any, the Manager has taken or purposes to take to avoid a recurrence of the incident or
circumstances that give rise to the shut-down or putting out of use.

32. Abandonment or replacements of any plant. Form F
Before any plant is permanently put out of commission, the Director shall first be informed on Form F in
the Schedule to these Regulations, and his written approval obtained.

33. Pressure vessels
(1) All Pressure vessels in use in the refinery shall be of good construction, sound materials and adequate
strength and shall be properly maintained in accordance with standards acceptable to the Director.
(2) Every pressure vessel shall be periodically inspected in accordance with the applicable provisions of the
Factories Act and, in particular, the following matters shall be carried out —
   [Cap 126 (Cap F1)]
   (a) oil heaters shall be inspected not more than eighteen months from their first commissioning and
thereafter at intervals of thirty months and the fire tubes replaced when below the minimum
thickness, and at the same time, other parts and fittings both internal and external shall be inspected;
   (b) (i) all compressed-air receivers shall be drained of liquid daily;
        (ii) where the internal surface of the receiver cannot be inspected and in any event not less
often than once in every thirty months the receiver shall be tested hydraulically to the
recommended test pressure;
   (c) gas separators shall be tested whenever the opportunity occurs but at intervals not exceeding
thirty-six months, and they shall be pressure tested to a pressure in excess of its working pressure
in accordance with the code of design and construction of the vessels;
   (d) relief valves and safety valves shall—
        (i) be inspected at least once in every thirty months or at such shorter intervals as shall be
necessary to maintain them in satisfactory condition and to ensure that they operate effectively
as soon as the safe working pressure is exceeded,
(ii) be set to operate at a pressure not exceeding 10 per cent above the working pressure and shall pass
full design quality at this setting, and where appropriate, bursting discs may be used in lieu of
safety valves,
(iii) be stamped or tagged with their set popping pressure.

(3) Every pressure vessel shall be fitted with rested pressure gauge, graduated in the metric system, and
such gauge shall be checked for accuracy at regular intervals.

(4) All new pipe work shall be tested in accordance with the code of design and construction before being put
into service, and shall also be similarly tested whenever any alteration or repair has been carried out.

(5) In this regulation, the expression “pressure vessel” includes steam boilers, steam receivers and steam
containers, air receivers and their attachments and lifting appliances.

34. Non-pressure vessels
(1) Heat exchangers, processing vessels and other equipment used in the refinery shall be inspected from
time to time in accordance with an inspection code acceptable to the Director.

(2) If any fault is detected during the course of inspection a detailed report of inspection shall be forwarded
to the Director.

35. Handling and blending of dangerous additives and chemicals
(1) Tetraethyl lead, tetramethyl lead or any other dangerous additives and chemicals shall be handled
strictly in accordance with the up-to-date instructions as drawn up by the manufacturers, a copy each
of which shall be forwarded to the Director and inspector.

(2) The amount of lead which one imperial gallon of any finished product shall contain may not exceed
that which is acceptable in current good refinery practice and in any case shall not exceed that amount
which the Director may, from time to time, specify.

(3) If the result of any sample which an inspector or an officer delegated by the Director withdraws and
analyses in the presence of an officer delegated by the Manager shows that the approved maximum has
been exceeded at any time, the Manager shall be guilty of an offence under these Regulations and shall
be liable on conviction to a fine of ₦100 or imprisonment for six months.

36. Storage capacities
(1) The total storage capacities for finished products in any refinery shall not be less than thirty days of the
maximum processing capacities of the refinery.

(2) The storage capacity for any feedstock, additive or chemical shall be such as to satisfy at least thirty days’
requirement.

37. Spare parts
(1) The Manager shall ensure ready availability of spare parts for critical equipment.

(2) “Critical equipment”, for the purpose of this regulation, means any equipment which if taken out of
commission will endanger the life of, or lead to a shut-down of, the refinery or parts thereof.

38. Spillage in the refinery
(1) Any unprogrammed spillage, of crude, products or chemicals inside the refinery shall immediately be
notified to the inspector.

(2) Such notice shall be followed within seven days after the spillage shall have occurred by a written report
describing the cause and nature of the spillage, the amount of spillage and the method of estimating it,
the amount of spillage recovered, precautionary measures taken since the spillage to prevent any hazard
that may arise therefrom, and precautionary measures taken to prevent such spillage in the future.

39. Analysis of imported stock for use in the refinery
(1) The exact quantity of each imported feedstock, blend stock and additives and details of all analysis
carried out by the refinery shall be duly recorded.
(2) Specimens of imports and results of any detailed analysis of such imports, carried out by the refinery shall be submitted to the Director whenever he so requires.

40. **Samples and specimens**
   (1) The licensee may remove for examination and analysis samples and specimens of crude oils, catalysts, petroleum products or any other materials considered necessary in course of his operations.
   (2) The Director shall be given full particulars of all samples and specimens so removed.

41. **Samples and specimens: control of export**
   The licensee may not export samples or specimens abroad except with the written permission of the Director and subject to such conditions as he may specify.

42. **Fires and explosions**
   Where fire or explosion occurs within a refinery area a full report hereof shall be made forthwith to the nearest inspector.

43. **Refinery effluent and drainage disposal**
   (1) The Manager shall ensure that drainage and disposal of refinery effluent and drainage water shall conform to good refining practices, the specification of the effluent and the mode of disposal shall be subject to the approval of the Director.
   (2) Complete analysis of the effluent and drainage water shall be performed at such regular intervals as the Director may prescribe and results of such analyses shall be clearly entered in a register specially kept for that purpose, every entry of which shall be duly signed by a competent person.
   (3) The Manager shall adopt all practicable precautions including the provision of up-to-date equipment as may be specified by the Director from time to time, to prevent the pollution of the environment by petroleum or petroleum products; and where such pollution occurs the Manager shall take prompt steps to control and, if possible, end it.
   (4) An inspector or an officer authorised by the Director may withdraw samples of any effluent and drainage water at any time for analysis and if the result of such analysis reveals that the approved specifications have not been not been complied with the Manager shall be guilty of an offence under these Regulations and shall be liable on conviction to a fine of ₤100 or imprisonment for a term of six months.

44. **Office and working accommodation**
   The Manager shall provide on the refinery premises such office and other working accommodation for an inspector as may be specified by the Director.

45. **Offences**
   (1) If any person—
      (a) contravenes any provision of these Regulations; or
      (b) fails to comply with any direction of the Director given in exercise of any of the powers conferred under these Regulations; or
      (c) fails to comply with the terms of any warning notice displayed pursuant to these Regulations, he shall be guilty of an offence and liable on conviction to a fine of ₤100 or imprisonment for a term six months.
   (2) Any person who fails or refuses—
      (a) to appear as a witness following a summons to do so issued by an inspector under regulation 18 of these Regulations; or
      (b) to produce any book or document required to be produced by an inspector for the purposes of an inquiry under regulation 18 of these Regulations, shall be guilty of an offence and liable on conviction to a fine of ₤100 or imprisonment for a term of six months.
   (3) Where a statement, information or report made or recorded pursuant to these Regulations includes any untrue statement the Manager shall, unless he proves that he had reasonable grounds to believe that the statement was true or proves that he did not authorise the making or recording of the untrue statement, be guilty of an offence and liable on conviction to a fine of ₤100 or imprisonment for a term of six months.
46. Fees
The following fees shall be payable—
(a) on application for a Refiner’s Licence U.S $50,000
(b) on the issue of a Refiner’s Licence U.S $100,000
(c) on the 31st December following the issue of the licence and on every 31st December, thereafter for every 2,000 tons, or part thereof, of the maximum crude oil capacity or hydrocarbon feed which the refinery is designed to process per calendar
(d) an application to modify a refinery or any of its installations N$100,000.00

47. General power to issue directions, etc.
(1) The Director may from time to time, give directions as to the manner of compliance with any matter provided for under these Regulations.
(2) The Minister may from time to time, issue instructions on any matter concerning the construction, efficient operation and maintenance of a refinery.

48. Interpretation
In these Regulations, unless the context otherwise requires—
“class “A” petroleum” includes all hydrocarbon liquids having a flash point below 73 °F, by Abel closed cup test, and all petroleum stocks with a flash point below 200 °F that are being handled at temperatures above their flash point;
“class “B” petroleum” includes all hydrocarbon products having flash points from 73 °F to 150 °F inclusive;
“class “C” petroleum” includes all hydrocarbon products having flash points above 150 °F;
“competent person” means a person appointed, with the approval of the Director, by the Manager in writing as a reliable person capable of exercising overall general supervisory responsibility in ensuring compliance with the provisions of these Regulations or parts thereof;
“crude oil” means mineral oil in its natural state before it has been refined or treated (excluding water and other foreign substances);
“Director” means the Director of Petroleum Resources, Ministry of Petroleum Resources, and includes any person for the time being holding, acting or performing the functions of that office;
“flash point” means the degree of temperature at which petroleum gives off a flammable vapour upon being tested by either the Abel closed cup tester or the Penky-Martens closed tester;
“inspector” means a petroleum engineer, any petroleum engineer above that rank, or any other officer appointed in writing by the Director to perform any or all of the duties prescribed in these Regulations;
“leaded refined product” means any refined product to which a portion of lead has been added in any form, with the aim of improving the qualities of the refined product;
“licensee” means the holder of a refining licence issued pursuant to the Act and these Regulations;
“L.P.G.” or “liquefied petroleum gas” means any petroleum product which is gas at normal atmospheric temperature and pressure comprising mainly of butane or propane or admixtures thereof and, being liquefiable under pressure is normally stored and handled as a liquid;
“Manager” means the person appointed Manager pursuant to regulation 4 of these Regulations;
“Minister” means the Minister of Petroleum Resources;
“mobile plant” includes both portable and transportable plants or units;
“natural gas” means gas obtained from boreholes and wells and consisting primarily of hydrocarbons;
“refinery” means petroleum refinery;
“refinery area” means any area in which operations connected with oil refining or the extraction of petroleum spirit from natural gas are carried on or in which oil or the products thereof are stored, including any jetty, oil viaduct leading to the sea or landing stage (whether enclosed or not) adjacent to such area;

“refined petroleum products” or “petroleum products” includes motor spirit, gas oil, diesel oil, automotive gas oil, fuel oil, aviation fuel, kerosene, liquefied petroleum gases and any lubricating oil or grease or other lubricant;

“refining” includes the liquefying of petroleum gas or gases by whatever method, separating or crude oil by whatever method into any grade of petroleum product, treating and up-grading of any petroleum or petroleum product by whatever method into other product or products;

“restricted area” has the same meaning as the “refinery area”.

49. Short title
These Regulations may be cited as the Petroleum Refining Regulations.

SCHEDULE

Form A

Petroleum Refining Regulations (Cap. P10)
L.N. 45 of 1974. Regulation 1

FORM A
APPLICATION FOR A LICENCE TO CONSTRUCT/OPERATE A REFINERY IN NIGERIA

1. Name of applicant
2. Registered address in Nigeria
3. Nationality of applicant
4a. Names, address and nationality of directors (where applicable)
4b Names, addresses and nationality of every individual or company participating in the project and the extent of each individual’s or company’s participation
5. Capital available to applicant for the construction of the refinery and details of the method of financing proposed
6. Proposed location of the refinery
7. Type of refinery proposed
8. Refinery capacity range
9. Proposed source(s) of crude oil supply
10a. Products to be produced
10b. Detailed specifications of products (to be attached to this application)
11. Proposed market for products produced
12. State the percentage of Government participation proposed
13. State if participants will accept participation of private Nigerian investors
14. Any additional information in support of application (provide the information on a separate sheet where necessary)
14. Any additional information in support of application (provide the information on a separate sheet where necessary) ...........................................................................................................................................................................................

I declare that the foregoing particulars are true and correct ...........................................................................................................................................................................................

...........................................................................................................................................................................................

Signature of Applicant or his Attorney ............................................................ Date

N.B (i) The application fee of ₦500 should be forwarded with this application.
(ii) Participation of documents attached to the application should be listed hereunder.

Form B

LICENCE NO.

PETROLEUM REFINING REGULATIONS (CAP. P10)
Refiner’s Licence
L.N. 45 of 1974

LICENCE TO CONSTRUCT/OPERATE A REFINERY

This licence is granted to .................................................................................................................................

(Name of licensee)

...........................................................................................................................................................................................

(Address of licensee)

to construct and operate a refinery at .................................................................................................................................

(Place)

more clearly defined on the site plan attached hereto for a term of ........................................ years commencing on the .............................................................. day .............................................. 20................

2. This licence is issued subject to the Petroleum Act and to the regulations made thereunder as are now in force and as they may be amended from time to time and to the special terms and conditions attached hereto.

3. A fee of ₦2,000 is payable on the issue of this licence after which, on the 31st December following the issue of the licence and on every 31st December thereafter — ₦2 for every 2,000 tons or part thereof, of the maximum crude oil capacity which the refinery is designed to process per calendar year.

4. DATED this ........................................... day of ................................................... 20.................................

...........................................................................................................................................................................................

Federal Minister of Petroleum Resources
### APPLICATION TO ENLARGE OR MODIFY EXISTING REFINERY

**L.N. 45 of 1974.**

1. **Name of licensee** ………………………………………………………………………………………………………………………………..
2. **Registered address in Nigeria** ……………………………………………………………………………………………………………………
3. **Plant/Component requiring modification** ………………………………………………………………………………………………………
4. **Particulars of modification desired:** enlargement* alteration* addition* change of normal use of component plants.
5. **Extent of alteration (if any) on refinery through-put capacity** ……………………………………………………………………………
6. **Reason(s) for modification** ……………………………………………………………………………………………………………………………
7. **The justification for applicant’s proposal** ………………………………………………………………………………………………………
8. **Relation (if any) to possible future developments** ……………………………………………………………………………………………
    - Particulars of site plan attached …………………………………………………………………………………………………………………
9. **Other information in support of application** ………………………………………………………………………………………………………
10. **I** ……………………………………………………………………………………………………………………………………………………………
    - (Name of applicant)
certify that the particulars stated above are correct.

    - **Name in full** ………………………………………………………………………………………………………………………………………
    - **Signature of Licensee or his Attorney** ………………………………………………………………………………………………………

Dated this ……………………………………………………………………………………………………………………………………………………..

**N.B** (i) Information which cannot be supplied within the available space provided in this form should be supplied in an attachment to this Application.

(ii) The application fee of ₦1,000 should be forwarded with this application.

* Delete where inapplicable
Form D
Regulation 17

From: ...........................................................................................................
Date: ...........................................................................................................

To: The Director of Petroleum Resources,
Ministry of Petroleum Resources,
Department of Petroleum Resources,

PETROLEUM REFINING REGULATIONS (CAP. P10)
Report of a Serious/Fatal Accident
L.N. 45 of 1974.

1. Name and address of licensee ....................................................................................................................................
2. Date of accident …………………………......................................................……….   Time ……………..........……………….
3. Place of accident
   (a) Location …………………………………………………….....………................................………………
   (b) Local Government Area …………………………………………………………………………………………………………………...
   (c) State ……………………………………………………………....................................…………………….
4. Nature of accident …..........................................................................................................................
5. How accident occurred …..........................................................................................................................
6. *Name of injured/deceased person(s) …...........................................................................................................................
7. Occupation …..........................................................................................................................
8. Date and time of application of first aid ...........................................................
9. Date injured person was sent to hospital …..........................................................................................................................
10. Place where injured person may be interviewed ..................................................................................................................
11. Names of eye-witnesses, if any, and copies of any statement taken at the time of or immediately after the incident under report ..........................................................................................................................
12. State whether in your opinion there was any degree of serious or wilful misconduct involved ….....

..........................................................................................................................................................................................

Signature                  Designation

*Delete whichever is applicable.

Form E

Petroleum Refining Regulations (Cap. P10)
NOTICE OF HEARING BY THE INSPECTOR
L.N 45 of 1974

To:...........................................................................................................

1. ..........................................................................................................................
2. ...........................................................................................................................
   You are hereby summoned to appear before me at ...............................................................on the ........................................day of ........................................ 20..................... and to give evidence at an inquiry being held into an accident at ...............................................................on the ...........................................day of ........................................... and you are required to bring with you—
3. ………………………………………………………………………………………………………………………………………………

DATED this ................................ day of ........................................ 20.................................................................

................................................................................................................................................................................

Inspector

Notice:--
1. Insert name of intended witness.
2. Insert address of intended witness.
3. Name any document the intended witness will be required to produce.

Form F

Petroleum Refining Regulations (Cap. P10)

NOTIFICATION OF DISRUPTION TO CONTINUOUS REFINERY OPERATION

1. Name of licensee ..............................................................................................................................................
2. Registered address in Nigeria ............................................................................................................................
3. *Plant/unit to be shut-down/abandoned and/or replaced ..............................................................................
4. Effective date of disruption ..............................................................................................................................
5. Estimated duration ..........................................................................................................................................!
6. Reasons for disruption stated above (if necessary give reasons on a separate attachment) ..................
7. Nature of work to be performed (where applicable) ....................................................................................
8. *Plant/unit is to be permanently/temporarily put out of commission.
9. *Plant/unit is to be replaced/not replaced by a similar plant.
10. Expected commissioning date of a plant/unit (where applicable) .............................................................
11. Brief history of abandoned plant (Provide on separate sheet if necessary) ................................................
12. I ...........................................................................................................................................................................

..................................................

(Name of manager)

certify that the above particulars are correct.

.................................................. ..................................................

Signature Date

*Date where inapplicable.
OIL AND GAS PIPELINES REGULATIONS 1995

ARRANGEMENT OF REGULATIONS

REGULATION

PART I — PRELIMINARY

1. Permit to survey pipeline routes, etc.
2. Application for Licence to Construct and Operate a Pipeline.

PART II — DESIGN, CONSTRUCTION AND INSPECTION ETC. OF OIL PIPELINE

3. Pipeline Design.
5. Construction of Pipelines.
8. Environmental Protection Guidelines.
10. Design of Cathodic Protection.
11. Maintenance of the Cathodic Protection System.
12. Cathodic Protection System.
15. Monitoring of Internal Corrosion.

PART III — GAS TRANSMISSION AND DISTRIBUTION PIPELINE

16. Guidelines for Design, etc.
17. Constructions, etc.
20. Operation and Maintenance.

PART IV — PROCEDURE FOR UPGRADING PIPELINE OR CHANGING SUBSTANCE TRANSMITTED BY PIPELINE

21. Application for upgrading pipeline, etc.
22. Change of Substance Transmitted by The Pipeline.

PART V — DISCONTINUATION, ABANDONMENT AND RESUMPTION OF OPERATION OF PIPELINE SYSTEM

23. Discontinuation.
25. Resumption of operation of abandoned or discontinued pipeline.

PART VI — MISCELLANEOUS

27. Interpretation.
28. Citation.
In exercise of the powers conferred upon me by section 31 of the Oil Pipelines Act and of all other powers enabling me in that behalf, I, Chief Dan L. Etete, Minister of Petroleum Resources, hereby make the following Regulations:

Commencement [17th June, 1995]

PART I — PRELIMINARY

1. — (1) No oil pipeline licence shall be granted or renewed unless the route of —
   (a) the pipeline has been surveyed; or
   (b) in the case of a renewal, the pipeline has been re-surveyed.

(2) No survey or re-survey shall be carried out under paragraph (1) of this regulation unless a permit to survey has been obtained in accordance with the provisions of sections 4 and 5 of the Oil Pipelines Act.

(3) An application for a permit to survey shall be accompanied with 10 copies of the topographical map of the proposed route of the pipeline drawn on scale —
   (a) 1:50,000, for a pipeline that is not more than 50 kilometres long;
   (b) 1:100,000, for a pipeline that is over 50 kilometres but not more than 100 kilometres long; and
   (c) 1:250,000, for a pipeline that is over 100 kilometres long.

2. — (1) An application for a licence to construct a pipeline shall —
   (a) be made during the validity of a permit to survey; and
   (b) be in accordance with the provisions of Part III of the Oil Pipelines Act.

(2) The application shall also be accompanied with the following, that is —
   (a) a statement indicating —
      (i) the services to be rendered by the pipeline,
      (ii) the specification of the pipeline,
      (iii) the characteristic of the fluids to be conveyed through the pipeline, and
      (iv) the total estimated cost of construction of the pipeline;
   (b) a survey description, in accordance with the Nigerian National Grid, of the total route of the pipeline, indicating the width of the right of way, with the co-ordinates of the various points of intersection;
   (c) ten copies of the plan of the pipeline showing —
      (i) the proposed route of the pipeline marked in red and the section and quarter sections;
      (ii) the location of each point at which there is a change in the outside or the nominal diameter of the pipeline, the wall thickness of the pipeline material, the type and grade of the pipeline and the designed maximum operating pressure;
      (iii) the direction of fluid flow along the pipeline;
      (iv) the location, shown by symbols, of an installation along the pipeline;
      (v) the location of the points at which the new pipeline would cross any other pipeline, stating the owner of the pipeline being crossed,
      (vi) the relative position of any existing pipeline in the same right of way of the new pipeline;
      (vii) any pipeline within a distance of 100 metres of the new pipeline, stating the owner of the that pipeline;
      (viii) the regional topography of the area along the pipeline route, within a distance of 100 metres on both sides, including any water course that the new pipeline would cross;
   (d) two copies of the plan of the pipeline showing —
(i) the location of any anchor or expansion loop,
(ii) the location and operating details of corrosion prevention devices, main line valves and any emergency shut down devices,
(iii) the pig lunching and receiving points and any tie-in-points with operating details;
(e) a hydraulic profile of the pipeline indicating the position of any pumping or booster station;
(f) the ancillary facilities along the pipeline or at its terminal ends, including compressor stations, manifolds and metre banks, giving a general description of each facility and its proposed operation parameter; and
(g) two copies of the plan and profile of the pipeline, indicating the manner in which the new pipeline would cross any highway, railroad, water way or any other pipeline along the route.

(3) No licence to construct a pipeline shall be granted or released unless a list of the construction companies being considered for the construction work has been submitted to and approved by the Department of Petroleum Resource (in these Regulations referred to as “the Department”) in accordance with the provisions of the Petroleum (Drilling and Production) Regulations 1969, as amended.

PART II — DESIGN, CONSTRUCTION AND INSPECTION ETC. OF OIL PIPELINE

Design

3. — (1) The design of a pipeline for the purposes of these Regulations shall be —
   (a) such that it shall be suitable for the transportation of liquid petroleum, including crude oil, refined products, natural gas liquid condensate and liquid petroleum gas; and
   (b) as set out in this Part of these Regulations.

   (2) The design for the re-location, replacement and upgrading of an existing pipeline shall also conform with the provisions of paragraph (1) of this regulation.

Standard of design

4. — (1.) The standard of design for the pipeline shall be as follows, that is —
   (a) it shall conform with—
      (i) the ASTM A 106 Grade B or API 5L Grade B or any acceptable equivalent standard, as the minimum requirement for a low pressure range or small diameter pipeline, and
      (ii) any of the API 5 LX grade range, for a high working pressure or large diameter pipeline, where a lower grade would require excessively thick walls to cope with the desired working pressure;
   (b) the pipeline shall be seamless and be Electric Resistance Welded (ERW) or Double Submerge Arc Welded (DSAW);
   (c) the design shall be in accordance with the ANSI/ASME B 31.4 – 1979 standard code and any subsequent revision, published by the American Society of Mechanical Engineers under the title “Liquid Petroleum Transportation Systems”.

2. In addition to the pipeline being in conformity with the ANSI/ASME B 31- 4 - 1979 code, special attention shall be taken into account in the stress calculation of the pipeline;
   (a) where a pipeline is to be laid at sea or river bed without burial, the wave and current loads on the pipeline shall be taken into account in the stress calculation of the pipeline;
   (b) where applicable, the calculation of limit stress due to sustained load, thermal expansion and occasional loads shall conform strictly with paragraphs 402.3.2. and 402.3.3. of the ANSI/ASME B 31.4-1979 code;
   (c) the design and materials selection of the pipeline components, including tees, elbows, bends, valves and fittings shall in all respects conform with Parts II and III of Chapter II of the ANSI/ASME B 31.4-1979 code;
   (d) no used fitting of an existing pipeline shall be used on a new pipeline unless its original specification has been identified and confirmed to be capable of
performing the new service;

(e) the threaded joints at the internal and external portions of the pipe shall be of the Tapered Pipe Thread type and conform with the API standard 5B or NPT threads in accordance with ANSI B2-1;

(f) the least nominal wall thickness of the threaded portion of the pipe shall not be less than the value specified in ANSI B2-1;

(g) all threaded joints of the pipe shall be on those sections of the pipeline that are above the ground;

(h) if two or more pipelines are to be so connected that one will operate at a pressure higher than the other, they shall be so designed that the pipeline system operating at the lower pressure shall not be subjected to any pressure greater than that for which it is licensed.

(i) any pipe fitting valve or equivalent connected to the pipeline shall have the manufacturer's rating which is equal to or greater than the proposed maximum operating pressure of the pipeline.

Construction

5. The procedure to be followed, the specification requirements and the other matters that shall be considered in the construction of a new pipeline or in the replacement of an existing pipeline shall be as follows, that is —

(a) no person granted a licence to construct a new pipeline or replace an existing pipeline shall begin construction work unless he has given the Department written notice of his intention to do so:

(b) any metallic pipeline material to be buried shall be coated with —
   i. coal-tar enamel, asphalt enamel, polyethylene tape, epoxy, asphalt mastic, urethane or extruded polyethylene, or
   ii. any other material specially approved by the Department for that purpose;

(c) a surface pipeline shall be painted, raised and maintained above ground on permanent supports;

(d) The pipeline construction shall —
   (i) follow the steps outlined in Chapter V of the ANSI/ASME B 31-4-1979 code and
   (ii) be carried out in a way that shall cause the least disturbance to the environment;

(e) special precautions shall be taken to protect the pipeline from wash outs, unstable soil, landslide or any other hazards; that may cause the pipeline to shift or be subjected to abnormal loads;

(f) ditching for the pipeline shall be in accordance with good pipeline practice;

(g) consideration for public safety shall be in accordance with the provisions of API RP 11002 or any other recognised equivalent standards;

(h) The minimum soil coverage of a pipeline shall be—
   i. in the case of dry land, 0.9 metre,
   ii. in the case of a river crossing and river beds, 1 metre,
   iii. in the case of a drainage ditch, railroad and highway crossing, 1.2 metres;
   iv. in the case of a rocky area, 0.6 metre;
   v. in the case of a swamp, 0.6 metre; and
   vi. in the case of a shipping channel, 1.5 metres;

(i) the pipeline welding shall be in accordance with the provisions of API 1104/1107 and welding inspection shall be non-destructive method using the radiographic method set out in API 1104-1973 or its subsequent editions;

(j) in addition to the specific requirements of the relevant Government agency responsible for railroad and highway crossings, the following precautions shall be taken at railroad and highway crossings, that is—
   i. any installation of carrier pipe or casing shall be in accordance with API RP 1102;
ii. the casing shall either be insulated from its carrier pipe support and extend to both sides of the railroad or highway or the crossing shall be of a thicker wall pipeline covered with compacted fill and protective reinforced concrete slab;

iii. a surface line shall be similar buried with casing protection or special construction as specified in sub-paragraph (ii) of this paragraph at such crossings;

iv. a pipeline warning sign shall be conspicuously displayed by the licence at the entry and exit points of the railroad, highway, river or any other pipeline crossing:

(k) the licensee shall, before commencing any ground disturbance in a populated or controlled area—
   (i) locate the position and alignment of the pipeline with marking and distinguishable warning signs at such intervals as may be specified by the Department,
   (ii) identify any pipeline within 39 metres radius of its area of ground distance during the construction of the pipeline;

(l) If there is an indication that a pipeline is within 30 metres radius of the pipeline or a pipeline crossing, the licensee or an other person undertaking construction within that radius shall locate the pipeline and mark it so that it can be identified and avoided by the construction equipment and no person shall excavate within 1 metre radius of the pipeline so located;

(m) The Department may direct that an existing pipeline or pipeline crossing located within the construction zone of the new pipeline in a populated or controlled area shall, during the period of ground disturbance in its vicinity be—
   (i) completely depressurised, or
   (ii) operated at reduced pressure, or
   (iii) otherwise protected;

(n) mainline block valves shall be installed—
   i. On the upstream side of major river crossings,
   ii. At pump stations; and
   iii. At other sensitive locations of the pipeline, including industrial, commercial and densely populated areas where construction activities may pose particular risks of damage to the pipeline, the right of way of the pipeline shall be clearly marked in those areas with signs for ease of identification;
   iv. Check valves shall be installed on the down stream of river crossings;
   v. The licensee shall, not later than six months after completion of construction, submit two copies of the as-built plan of the pipeline on the same scale as that of the plan submitted with the application for the pipeline licence.

**Inspection and Testing**

6. The licensee shall, on completion of the construction of the pipeline, give the Department not less than seven days notice of its intention to commence inspection and testing of the pipeline.

7. The guidelines for the inspection and testing of a pipeline are as follows, that is—
   a. the pipeline shall be inspected visually and examined radiographically in accordance with the procedure set out in Chapter VI of the ANSI/ASME B 31.4-1979 code or its subsequent revisions;
   b. pressure tests shall be conducted by hydrostatic method and in such manner as shall ensure the protection of life, property and the general environment of the pipeline;
   c. the entire length of the pipeline shall be tested to the designed rated pressure;
   d. an in-line pressure vessel or a pre-fabricated manifold on the pipeline shall be tested to the manufacturer's specifications in accordance with the Mineral Oils (Safety) Regulations 1963; L.N. 45 of 1963;
   e. the pressure recording instruments to be used for testing shall have a valid calibration certificate which shall not be more than a year old;
   f. the accuracy of the pressure recording instrument shall be within 2 per cent of its range;
   g. the chart record of the test shall be continuous and legible and the test results and any
remedial action taken shall be submitted to the Department for approval before the pipeline is commissioned;

h. except with the permission of the Department, the duration of pressure test—
   i. shall not be less than 24 hours of continuous testing in the case of leaks and material failures, and
   ii. may be less than 24 hours of continuous testing but not less than 1 hour in the case of buried pipelines of not more than 100 metres in length and all surface running pipelines; all buried pipelines shall be tested to a pressure of not less than 1.25 times the maximum designed operating pressure;

j. surface pipelines transmitting liquid petroleum or gas shall be tested up to a pressure of not less than 1.4 times the maximum designed operating pressure;

k. unless otherwise authorised or permitted by the Department—
   i. the actual test pressure throughout the duration of test shall not exceed 110 per cent of the minimum yield strength of the pipe material and the test equipment shall appropriately be pre-set not to produce above that pressure;
   ii. the test medium shall be water;
   iii. every pipeline shall be tested to a minimum pressure of not less than 700 kilopascals;

l. the maximum test pressure in all cases shall not result in a hoop stress greater than 110 per cent of the specified maximum yield strength of the pipe material based on its nominal wall thickness; and

m. valves and fittings on the pipeline shall not, during the test, be subjected to a pressure greater than the manufacturer’s test pressure rating.

8. Where—
   a) the test pressure results in a hoop stress greater than 75 per cent of the specified minimum yield strength of the pipeline based on its nominal wall thickness; or
   b) the pipeline crosses or passes within 10 metres of a watercourse; the operator shall assure the Department that adequate contingency plans have been made for protecting the environment.

   **Operation and Maintenance**

9. The guidelines for the operation and maintenance of the pipeline are as follows, that is —
   a) a licensee shall—
      i. not begin to operate a pipeline unless he has obtained the approval of the Department;
      ii. establish a written emergency plan for implementation in the event of systems failure, accidents or other emergencies;
   b) an emergency plan established under sub-paragraph (a) (ii) of this paragraph shall include procedures for prompt and expedient remedial action for—
      i. the safety of the personnel of the operating company and of the public;
      ii. the protection of property and the environment;
      iii. the control of accident discharge from the pipelines, and
      iv. the adequate training of personnel for the handling of emergencies;
   c) the maximum steady state operating pressure and static condition shall not exceed—
      i. the internal design pressure, or
      ii. the pressure ratings of the components, whichever is less, and the pressure surges or the momentary pressure variations shall not exceed 10 per cent.
   d) pipelines markers at crossings shall indicate the location of the pipeline and the name of the operating company;
   e) all pressure relief devices shall be—
      i. activated after installation to ensure that they function properly,
      ii. inspected and re-certified once in 26 months, and the report of the inspection
and re-certification shall be sent to the Department;

f) the right of way shall be maintained to provide a clear visibility and give reasonable access to the maintenance crew;

g) clear access shall be maintained to valves locations, and ditches shall be protected against washout of the pipeline;

h) the right of way shall be regularly patrolled for prompt detection of any link break, encroachment or any other situation that may endanger the safety of the pipeline;

i) any line break, encroachment or dangerous situation detected under subparagraph (h) of this paragraph shall be promptly reported to the Department;

j) all underwater crossings shall be inspected not less than once in 5 years to ensure that—

i. there is sufficient cover for the pipeline, and

ii. the safety of the pipeline at the crossing is not endangered in any way

k) any repair to the pipeline shall be carried out in accordance with—

i. good pipeline practice, and

ii. the safety provisions contained in the standards API RP 1107 and API RP 1111 or their recognised equivalent standards;

l) the repaired section of the pipeline shall be pressure tested at the same expected operating conditions relating to a new pipeline;

m) The riser installation of an offshore pipeline connected to a platform shall be visually inspected every year for physical damage or corrosion in and above the splash zone;

n) the record of an inspection under sub-paragraph (m) of this paragraph shall be kept on location for verification, whenever the need arises.

Cathodic Protection and Corrosion Control

10. The design for the cathodic protection from external and internal corrosion of a ferrous pipeline and its components shall be in accordance with the specifications and procedures prescribed in the NACE RP 0169-89 or equivalent standards.

11. 1) The cathodic protection system shall—

   a) be maintained in a serviceable condition; and

   b) be electrically tested at least once in two years.

2) Where a test under paragraph (1) (b) of this regulation reveals a weakness in the cathodic protection system, appropriate measures shall be taken and a report of the test and the measures taken shall be promptly sent to the Department.

3) All sources of impressed current such as rectifiers and other associated devices in the cathodic protection system shall be inspected and tested every 4 months to ensure their proper functioning.

12. 1) The cathodic protection system shall be provided by a galvanic anode or an impressed current anode system which shall—

   a) be installed in such a way that it mitigates corrosion; and

   b) contain a method of determining the degree of cathodic protection achieved on the pipeline.

2) The criteria for selecting the appropriate protection system shall be as listed in paragraph 7.5 of section 7 of the NACE Standard RP 169-83.

3) A cathodic protection system shall be—

   a. Installed not later than one year after the laying of the pipeline and in such a way that the pipe coating at the point of installation are kept intact;

   b. Electrically isolated at all inter-connections to other pipelines systems or structures except where the two structures are mutually protected by the same system;

   c. Protected against damage by atmospheric electrical discharges, underground cables and power lines.
4) Except for underwater pipelines, sufficient test leads shall be installed at test stations of buried pipelines for the periodic checks of the effectiveness of the cathodic protection system, which shall be carried out by electrical measurements.

5) A minimum distance of 3 metres shall be maintained between the electric transmission tower footings, ground cables and earthings, power lines and the pipeline being protected.

6) For the purposes of paragraph (4) of this regulations, “test stations” includes all pipe casing installations, insulating joints, crossing and main manifold junctions.

13. **External Corrosion Control**

   The guidelines for the application of coating to the pipeline and its cathodic protection for the control of external corrosion of a buried or submerged pipeline are as follows, that is—

   a. The coating shall —
      i. be applied in such a way that it will mitigate corrosion and effectively resist under-film migration;
      ii. be ductile and strong enough to resist cracking and damage during handling and under soil stress;
      iii. be compatible with any supplemental cathodic protection;
      iv. if it is on insulating type material, have low moisture absorption;
      v. be applied in such a way that no irregularities protrude through it and no holiday gaps exist anywhere on the pipeline;

   b. the points of connection of any attachment to the pipeline shall be sealed with the coating.

14. 1) The guidelines for the corrosion control of a pipeline are as follows, that is—

   a) No corrosive material shall be transported in a pipeline unless appropriate measures have been taken to mitigate the corrosive effect of the material on the internal coating of the pipeline

   b) Internal corrosion shall be prevented by —
      i. frequent pigging, inhibiting or scraping, or
      ii. the application of internal coating on the pipeline before it is laid

   2) Whichever method is used under paragraph (1) (b) of this regulation appropriate precaution shall be taken, for example—
      a) in the case inhibition of the pipeline, sufficient coupon holders shall be used; and
      b) in the case of application of internal coating, the established industry standards of internal coating material shall be complied with.

15. 1) Internal corrosion in a pipeline shall be monitored by running an intelligent pig or other internal survey instrument through the pipeline at least once in 5 years.

2) A report of a monitoring survey carried out under paragraph (1) of this regulation shall be sent to the Department.

**PART III — GAS TRANSMISSION AND DISTRIBUTION PIPELINE**

**Design**

16. The guidelines for the design, fabrication, installation, inspection, testing, operation and maintenance of a gas transmission and distribution pipeline required to operate with metal temperature of between 450°F and minus 20°F shall be as follows, that is—

   a) the standard of design shall be in accordance with the specifications of ANSI/ASME B31.8-1986 titled “Gas Transmission and Distribution pipe systems” or its later editions;

   b) all structural materials, valves, fittings, flanges, bolting and tubing to be used shall generally conform with the specification in Appendix B of the reference standard ASME B31.8;

   c) the gas pipeline shall be generally seamless or of the ERW (Electric Resistance Welded) and DSAW (Double Submerged Arc Welded) types;

   d) the use of thermoplastic and thermosetting pipe materials may be acceptable if they conform with the ASTM specifications 02513 and 02517, respectively and are inhibited against material degradation effects by ultra violet rays if used in locations where the
pipeline is exposed to sunlight;

e) the weldability of the ferrous pipe materials shall be tested in accordance with the requirements of API standard 1104;

f) adequate provision shall be made for —
   i. the flexibility of the pipeline while under pressure in the form of anchorage and guide points, and
   ii. temperature induced stresses by allowing for expansion joint couplings.

**Construction**

17. The guidelines for the construction of a new gas pipeline or for the replacement of an existing gas pipeline shall be as follows, that is —
   a) the design and Construction of a pipeline and its corresponding corrosion control installations shall be in accordance with the standards and codes specified in ANSI/ASME B 13.8, and in the National Association of Corrosion Engineers Standard RP 0169-83 generally referred to as NACE standard RP 0169-83;

   b) a long distance gas transmission pipeline shall be made of steel and its design and construction shall be governed by the population density indices specified in ANSI/ASME B31.8 and the corresponding design factor;

   c) where a type of construction is specified for pipeline in the proximity of main roads and railroads and their mode of crossings, the pipeline shall be constructed to those specifications;

   d) the minimum depth of burial of the pipeline shall be as specified in regulations 5 (h) of these regulations but where—
      i. the minimum depth cannot be achieved, or
      ii. the pipeline would be exposed to excessive external loads, the pipeline, at those points, shall be encased, bridged or specially re-inforced to withstand any anticipated external loads;

   e) there shall be a minimum clearance of 0.5 metre between the pipeline and any other underground structure not connected with it;

   f) a buried pipeline shall be protected against corrosion and if a pipeline is to transport corrosive or toxic gas —
      i. the design parameter of the pipeline shall be such that the gas pressure in the pipeline at anytime shall not result in a hoop stress greater than 60 per cent of the specified minimum yield strength of the pipeline material based on its nominal wall thickness, and
      ii. the block valves and check valves for the pipeline shall be so located as to prevent the escape of the corrosive or toxic gas into the atmosphere in the event of a pipeline failure.

   g) the inspection of the pipeline construction materials and its appurtenances, welding, ditching, stringing and the general installation shall be in accordance with the procedure cut line set out in Chapter IV of ANSI/ASME B 31.8;

   h) a pipeline laid —
      i. in a farmland, virgin area or sparsely populated area, shall be tested with water up to a minimum pressure of 125 per cent of its designed maximum operating pressure or with air up to 110 per cent of its maximum operating pressure;
      ii. in a densely populated area, shall be tested only with water up to a minimum pressure of 140 per cent of its designed maximum operating pressure, and the result of the test shall be sent to the Department;

         i) a pipeline, designed to withstand 20 per cent more of the specified minimum yield strength, shall be tested by using pressurised air gas between 100 per cent to 20 per cent of the minimum specified yield of the material, and a pipeline designed to operate at below 100 psi shall be leak tested at the maximum system pressure.

18. Cast iron materials shall not be used for a gas pipeline unless —
   a. specific application, supported with compelling reasons for using the cast iron material, has been made to the Department;
b. the Department has given special approval for the material to be; and
c. the design is strictly in accordance with the specifications set out in paragraph 842 of the reference standard ANSI/ASME B 31.8.

19. 1) Thermoplastic and thermosetting plastic material of the grades specified in ASTM 2513 and ASTM 2517 may be used for laying services lines only.

2) The guidelines for the use of plastic materials are as follows, that is:
   a) where the value of the plastic design factor is not less than 0.32 for any case, the design pressure for the plastic gas pipeline shall be in accordance with the formula given in paragraph 842.31 of ANSI/ASME B 31.80;
   b) the plastic materials shall not be used in any service where the maximum and minimum operating temperatures are higher than 100°F or lower than minus 200°F respectively;
   c) the plastic materials used shall be inhibited against the effect of ultra-violet rays which renders such materials brittle when exposed to sun light;
   d) the plastic pipes or tubing shall not be threaded at joints but shall be jointed by the solvent cement method, adhesive method, heat-fusion or by means of compression coupling or flanging, whichever conforms with the manufacturer's specification;
   e) extreme caution shall be taken in laying plastic pipelines to avoid damage to the material, consequently,
   f) a buried plastic pipeline of —
      i. ½ inch nominal diameter and above, shall have a minimum wall thickness of 0.1 inch, and
      ii. below-inch nominal diameter, shall have a minimum wall thickness of not less than 0.06 inch;
   g) a plastic pipeline shall —
      i. be buried in undisturbed or well compacted soil and no mitre bend shall be permitted at any portion of the pipeline;
      ii. be tested at a pressure of not less than 150 per cent of its maximum operating pressure or 50 psig, whichever is greater;
      iii. not be subjected on any occasion to a pressure of more than 300 per cent of its maximum operating pressure.

20. 1) The operation and maintenance of —
   a) the pipeline, shall be as specified in regulation 9 of these regulations; and
   b) the associated corrosion system shall be in accordance with the provisions of NACE standard RP 10069-83

2) A pipeline that is not put into use —
   a) after 6 months of its construction, shall be filled with inert gas or nitrogen;
   b) until after 1 year of its construction, shall be pressure tested and certified by the Department before it is put into use.

3) The gas pipeline system shall be well purged with water, air or inert as before any repair is undertaken and the environment of the repair site shall be monitored constantly with gas detecting device to ensure adequate safety.

PART IV — PROCEDURE FOR UPGRADING PIPELINE OR CHANGING SUBSTANCE TRANSMITTED BY PIPELINE

21. 1. A licensee who desires to upgrade the maximum operating pressure of his pipeline shall make an application to the Department stating the following, that is —
   a. the reason for his desire to upgrade the pressure;
   b. the leak history of the pipeline to be upgraded;
   c. the modification required to be made to the pipeline system to render it qualified for upgrading in accordance with the specifications contained in paragraph 845 of ANSI/ASME 3.18;
   d. the tests that the licensee intends to carry out on the pipeline system in accordance with regulation 16 of these regulations in which the upgraded maximum operating pressure shall now be the new parameter to use for the tests;
such other information as the Department may deem necessary to enable it to take a decision on the application.

2. The Department may grant approval for the upgrading of the pipeline and its operation at the upgraded operating pressure if the Department is satisfied with the information supplied to it under paragraph (1) of this regulation.

22. 1. Where a licensee desires to change the nature of the fluid transmitted by the pipeline, that is —
   a. from liquid petroleum to gas; or
   b. from sweet gas to corrosive gas, he shall make an application to the Department.

2. A licensee who makes an application under paragraph (1) of this regulations shall state—
   a. the reason for desiring the change;
   b. the leak history of the pipeline concerned;
   c. the modification require to the pipeline system to render it capable of performing the new service;
   d. such other information as the Department may deem necessary to enable it to undertake a realistic assessment of the application for the purpose of approval.

3. The Department may grant approval for the change of substance transmitted by the pipeline if the Department is satisfied with the information supplied to it under paragraph (2) of this regulation.

PART V — DISCONTINUATION, ABANDONMENT AND RESUMPTION OF OPERATION OF PIPELINE SYSTEM

23. 1. A licensee who desires to discontinue the operation of the pipeline system or its ancillary facilities shall apply to the Department giving at least 3 months notice of his intention to do so.

2. An application made under paragraph (1) of this regulation shall be accompanied with—
   a. the reason for the discontinuation of the pipeline system or its ancillary facilities;
   b. 2 copies of the plan of the entire pipeline or part thereof in which the operation is to be discontinued shown in green colour;
   c. the method proposed to be used for the discontinuation of operations.

3. The Department may, if satisfied with an application made under this regulation, grant a discontinuation approval upon such conditions as it may determine.

4. On the grant of an approval under paragraph (3) of this regulations and subject to any condition attached to the approval, the pipeline shall be—
   a. disconnected from all other facilities connected to it, including other pipelines, meter stations, ancillary facilities and appurtenances;
   b. purged of petroleum liquid or gas by using water or inert material and capped at both ends with moisture resistance materials.

24. 1. Where a pipeline is to be completely abandoned, the provisions set out in regulation 23 of these regulations shall apply.

2. the right of way of an abandoned pipeline shall continue to be maintained and clearly identified for as long as the pipeline remains in place.

3. where the abandoned pipeline —
   a. is to be removed, the licensee shall send to the Department the proposed work programme for the removal for approval;
   b. has been removed under sub-paragraph (a) of this paragraph, the licence shall restore to perfect condition—
      i. the right of way of the pipeline, and
      ii. any disturbed land area in the vicinity of the pipeline.
25. 1. A licensee who desires to resume operations in an abandoned or a discontinued pipeline shall apply to the Department for approval.

2. An application made under paragraph (1) of this regulation shall be accompanied with —
   a. the reason for the resumption of operation; and
   b. the proposed method to be used in reactivating the pipeline.

3. The Department may, if satisfied with an application made under this regulation, approve the reactivation of the pipeline under such conditions as it may determine.

4. A pipeline reactivated under this regulation shall be tested as a new pipeline under the proposed operating conditions of the pipeline.

PART VI — MISCELLANEOUS

26. 1. A person who contravenes a provision of these regulation is guilty of an offence and liable on conviction to a fine of up to ₦500,000 or imprisonment for a term of 6 months or to both such fine and imprisonment.

2. Where an offence under paragraph (1) of this regulation which is committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer, servant or agent of the body corporate (or any person purporting to act in such capacity), he as well as the body corporate, shall be deemed to be guilty of the offence and may be proceeded against and punished in the same manner as an individual under paragraph (1) of this regulation.

27. In these regulations, unless the context otherwise requires —
   “Department” means the Department of Petroleum Resources in the Ministry.
   “DSAW” means Double Submerged Arc Welded;
   “ERW” means Electric Resistance Welded;
   “Minister” means the Minister charged with responsibility for matters relating to petroleum resources and “Ministry” shall be construed accordingly.

28. These regulations may cited as the oil and gas pipelines regulations 1995.

Made at Abuja this 17th day of June 1995.

CHIEF DAN L. ETETE
Minister of Petroleum Resources

EXPLANATORY NOTE
(This note does not form part of the above regulations but is intended to explain its purport)

The regulations among other things, prescribe procedures and guidelines for obtaining licences and approvals for the construction of oil and gas pipelines and the steps to be followed during the construction, commissioning, operation and maintenance of the pipelines and their ancillary installations.
MINERAL, OILS (SAFETY) REGULATIONS

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MINERAL, OILS (SAFETY) REGULATIONS
[L.N. 45 of 1963]

[section 9]

Commencement [11th April, 1962]

PART I
Preliminary

1. Citation
These Regulations may be cited as the Mineral Oils (Safety) Regulations.

2. Interpretation
In these Regulations, unless the context otherwise requires —
“Child” or “younger person” shall have the same meaning as is assigned to it in the Children and Young Persons Act; Cap. 26 of the Laws of Lagos State;
“Class ‘A’ Petroleum” comprises all hydrocarbon liquids having a flash point up to but not including 73°F by Abel closed cup test and all petroleum stocks with a flash point below 200°F that are being handled at temperatures above their flash point;
“Competent person” means a person appointed by the manager under regulation 6;
“crude oil” means the natural product of wells or seepages of petroleum oil before such oil has been refined or otherwise treated.
“dangerous area” means —
(a) any enclosed premises containing a dangerous location together with a space extending not less than fifty feet measured along the shortest possible path in air of flammable gases or vapour from any point of escape of such gases from such premises; or
(b) any open premises containing one or more dangerous locations together with a space extending not less than fifty feet in all directions from every such dangerous location;
“dangerous atmosphere” means an atmosphere containing any flammable gases or vapour in a concentration capable of ignition by an open flame or electric spark;
“dangerous location” means a location where a leakage or emission of a product which can produce a dangerous atmosphere is normally likely to occur;
“Director of Petroleum Resources” means an officer of the Ministry of Petroleum Resources appointed as such to exercise and perform those powers and duties, as the case may be, as are assigned to him by these Regulations;
“gas” or “natural gas” means gas obtained from boreholes or released from crude oil and consisting principally of hydrocarbons;
“gas free” includes an absence of any concentration of combustible or toxic gases in a vessel, container or any area below the prescribed limits;
“inspector” means a petroleum engineer or other officer appointed in writing by the Director of Petroleum Resources to perform any of the duties detailed in these Regulations or in any of the licences or leases granted under the repealed Mineral Oils Act;
“L.P.G.” means hydrocarbon gas components comprising mainly butane or propane or admixtures thereof capable of being condensed and stored in liquid form in pressure vessels while gaseous at normal temperature and atmospheric pressure;

“manager” means the person appointed by the licensee under a license or by the lessee under a lease to be in charge of all operations authorised by the license or lease;

“pressure vessel” means a closed vessel of any capacity subjected or which may be subjected to an internal pressure above atmospheric;

“restricted area” in an installation or oil field means an area in which certain precautions are necessary to ensure safety by reason of the possible presence of dangerous atmosphere, or because of the operations executed therein;

“unrestricted area” in an installation or oilfield means an area which is free from petroleum vapour in dangerous or hazardous quantities, and in which it is safe to accommodate boilers, open fires or flames, workshops, service buildings or any other similar structure;

“wells” includes every borehole drilled or sunk for the purpose of searching for or producing crude oil or natural gas, and, where the context so admits, all works adjacent to or connected with such boreholes except boreholes which shall have been reported to the Director of Petroleum Resources as abandoned.

PART II
Duties of licensees and lessees

3. Duties of licensees and leases
Every licensee or lessee under a license or lease issued under the repealed Mineral Oils Act shall —
(a) appoint in writing a person to be the manager who shall have continual charge of all operations authorised by the licence or lease;
(b) notify the Director of Petroleum Resources in writing of such appointment and of any subsequent appointment in place of an original or later appointment;
(c) provide sufficient safety belts for derrickman and hard hats and safety boots of a pattern to be approved by the Director of Petroleum Resources for persons working in every drilling and workover crew;
(d) provide adequate fire fighting and first aid equipment in accordance with good operation practice and to the satisfaction of the Director of Petroleum Resources at every well being drilled or worked over, block station, pump station or installation handling crude oil, natural gas or petroleum product;
(e) ensure that no person shall drill any borehole for petroleum oil or gas with its centre within 150 feet of any building in which fire or light other than a flame proof or explosion proof electric lighting installation are used, unless the said building shall have been evacuated and fire and exposed lights extinguished for the period when drilling is in progress.

4. Offences
Any licensee or lessee who fails to comply with the provisions of this Part of these Regulations shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100 or to imprisonment not exceeding six months or to both such fine and imprisonment.

PART III
Duties of managers

5. Compliance with regulations
It shall be the duty of every manager to ensure that the provisions of the regulations in this Part are fully complied with.

6. Appointment of competent persons
The managers shall appoint in writing competent persons for the purpose of supervising all drilling, production, transmission and loading operation, and shall at once report each appointment and change in appointment to the Director of Petroleum Resources.

7. Drilling and production operations
Where no specific provision is made by these Regulations in respect thereof, all drilling, production, and other operations necessary for the production and subsequent handling of crude oil and natural gas shall conform with good oilfield practice which for the purpose of these Regulations shall be considered to be adequately covered by the appropriate current Institute of Petroleum Safety Codes, the American Petroleum Institute Codes or the American Society of Mechanical Engineers Codes.
8. Approaches
Every derrick floor shall have at least two clearly defined approaches which shall in addition be capable of being used as exits in case of danger and which shall be kept clear of obstruction at all times.

9. Moving machinery
(1) Every dangerous part of any machinery shall be securely fenced or guarded unless it is in such a position or of such construction as to be as safe to every person employed or working on in the premises as it would be if securely fenced or guarded.

(2) All guards protecting rotary table chains shall be capable of resisting the shock of a breaking chain.

10. Hooks
The hook used for hoisting drill pipe, casing, tubing or sucker rods shall be provided with a latch or other device sufficient to prevent the elevator links or other equipment becoming detached from the hook.

11. Lifelines
(1) Unless exemption has been obtained in writing from the Director of Petroleum Resources every derrick shall be provided with a life lines or other suitable device securely fixed at any platform in the derrick where persons are normally working, and firmly anchored to the ground at least 50 feet from the nearest point of the derrick at an angle not exceeding 45 degrees to the horizontal; and such lifeline or lifelines or other suitable device shall be anchored against the prevailing wind and shall not run over oil tanks or sumps.

(2) Where a lifeline is employed, a carriage of a type approved by the Director of Petroleum Resources shall be provided.

(3) The lifeline shall be tested before the start of drilling at weekly intervals thereafter, and all personnel who work in the derrick shall be instructed in its use.

12. Boilers and oil treaters
(1) No boiler or oil treater fired by a naked or open flame shall be placed within one hundred and 50 feet of the centre of any borehole being drilled for crude oil or gas or being worked over, or within one hundred feet of a dangerous area.

(2) As far as is practicable any such boiler or treater shall be placed upwind from the nearest borehole or well in the direction of the prevailing wind and in a naturally ventilated area.

13. Internal Combustion Engines
(1) The use of internal combustion engines whether stationary or otherwise within one hundred and 50 feet of the centre of any borehole being drilled for crude oil or gas or being worked over, or within one hundred feet of a dangerous area is not permitted unless:
   (a) such precautions as are approved by the Director of Petroleum Resources are taken to prevent fire or explosion; and
   (b) exposed metal surfaces on exhaust manifolds do not exceed 700°F in temperature.

(2) Exhaust gases from internal combustion engines shall not be released into the atmosphere within one hundred and fifty feet of the centre of any borehole being drilled for crude oil or gas or being worked over or within one hundred feet of a dangerous area:

Provided that the provisions of this paragraph shall not apply to motor vehicles, power driven vessels, hovercraft, helicopters, or to internal combustion engines and exhausts of which are fitted with flame-proof attachment of type approved by the Director of Petroleum Resources.

14. Electricity
(1) Where electricity is used at a borehole being drilled for or producing crude oil or gas, or in any other dangerous area, the installation provided shall comply in every respect with the Institute of Petroleum Electrical Code.

(2) Every derrick at any well being drilled or brought into production shall be fitted with a switch adjacent to the driller's normal working position capable of cutting off the electrical current from the electrical installation in the derrick.

(3) All electrical apparatus for power purposes of whatsoever description shall, when installed in a dangerous area, either -
   (a) be certified flame proof, group II, in conformity with British Standard 229; or
   (b) be constructed in compliance with United States National Electrical Safety Code and the National
Board of Fire Underwriters National Electric Code for explosion-proof electrical apparatus and equipment, and all cable glands and bolted cable couplers shall be constructed and installed in conformity with the relevant British Standards for flame-proof fittings of this type, or the relevant American Codes where explosion-proof fittings are used.

(4) All apparatus, cables, fittings and other equipment shall be installed and maintained to ensure that neither the flame proof nor explosion proof characteristics, as the case may be, are invalidated.

(5) All apparatus, including all associated wiring, within a dangerous area, for communication purpose, (that is, telephones and bells) shall be certified intrinsically safe in conformity with British Standard 1259 or the corresponding United States Code (explosion-proof).

15. Pressure vessels

All pressure vessels and their fittings in use in oilfield installations shall meet the American Society of Mechanical Engineers Codes and as far as their routine inspection and testing are concerned, these shall comply with the requirements of the Factories Act, and a record of such inspection and testing shall be maintained to the satisfaction of the Director of Petroleum Resources; and in particular, the following matters shall be carried out and recorded.

(a) oil heaters shall be examined at intervals of not more than twelve-months and the fire tubes replaced when below the minimum thickness. At the same time other parts and fittings both internal and external shall be examined;

(b) all compressed-air receivers shall be drained of liquid daily. Where the internal surface of the receiver cannot be examined and in any event not less often than once in every 26 months the receiver shall be tested hydraulically to the recommended test pressure;

(c) gas separators shall be tested whenever the opportunity occurs and at intervals not exceeding five years. They shall be tested to the recommended test pressure which shall not be less than one-and-one-half times the design working pressure;

(d) relief valves and safety valves shall be inspected at least once in every twenty-six months or at such shorter intervals as shall be necessary to maintain them in a satisfactory condition and to ensure that they operate effectively as soon as the safe working pressure is exceeded. They shall be set to operate at a pressure not exceeding ten per cent above the working pressure and shall pass full design quantity at this setting. All safety valves shall be stamped or tagged at their set popping-pressure, and where appropriate, bursting discs may be used in lieu of safety valves;

(e) every pressure vessels shall be fitted with a tested pressure gauge, graduated in pounds per square inch or the metric equivalent. Such gauge shall be checked for accuracy at intervals not exceeding six months;

(f) all new pipework shall be tested in accordance with A.S.M.E. working standards to 1.25 times the maximum intended working pressure before being put into service; and pipework shall also be similarly tested when alterations or repairs have been carried out.

[Cap F1]

16. Tanks

(1) All permanently placed bulk storage tanks containing Class A petroleum (which for the purposes of this regulation includes crude oil) shall be installed within a bond wall capable of containing the contents of the largest tank plus ten per cent of the remaining tanks; and where there is only one tank the bond wall shall in the event of an emergency conflagration, be capable of containing the contents of the tank unless the piping facilities are approved as adequate to remove them.

(2) In addition the tanks referred to in paragraph (1) of this regulation shall —

(a) be fitted with access doors sufficiently large to enable easy access and vents capable of relieving any excess pressure or vacuum;

(b) have access to their roofs by means of a ladder or staircase or a type approved by the Director of Petroleum Resources and all floating roof tanks shall have an adequate wind girder;

(c) have provision made for containing any leakage to prevent oil contaminating the water when located above water; and

(d) be provided with efficient electrical earth connections independent of pipe connections, having an electrical resistance value not exceeding ten ohms when measured by an earth resistance tester of the 'Megger' or similar type.

(3) Before permitting workmen to enter a tank which had previously contained petroleum products it shall be gas free and the concentration of gas determined; and all feed and vent lines shall be disconnected.
and blanked off; and tank hatches shall be kept open.

(4) During tank-cleaning operations adequate ventilation shall be provided inside the tank and, as work progresses, frequent tests shall be made to detect increases in gas concentration.

(5) If the gas concentration exceeds a half per cent gas masks shall be worn, tools shall be incapable of causing sparks, and hand lamps and torches used shall either —
   (a) be certified flame proof, group II, in conformity with British Standard 229; or
   (b) be constructed in compliance with the United States National Electric Safety Code and the National Board of Fire Under-writers National Electric Code for explosion proof electrical apparatus and equipment.

17. Fuel storage tanks
All petrol, diesel oil or L.P.G. tanks shall be sited at least 100 feet from the centre of any well being drilled or worked over or any dangerous area in a direction downwind from the prevailing wind where possible; and all noxious or inflammable gases vented from storage tanks shall be carried a safe distance from regular operating areas and be properly disposed of.

18. Persons entering tanks, etc.
(1) Unless a tank that has contained petroleum has been certified safe by a competent person it shall not be entered by any person without a life line and unless accompanied by a second person who shall stand at a safe distance but in a position to observe if the first person is overcome by gas or fumes.

(2) No person shall enter a sump or well cellar which has contained petroleum without a lifeline and unless accompanied by a second person who shall stand at a safe distance but in a position to observe if the first person is overcome by gas or fumes.

(3) The second person mentioned in paragraphs (1) and (2) of this Regulation, if an accident occurs shall call for help and shall render such assistance as is practicable without entering the tank, sump or well cellar until the help arrives.

19. Safe access
Safe access shall be provided on all drilling rigs and other installations, with non-slip walkways and handrails leading over complex pipe systems and other obstructions. Drains in the area of general access shall be covered.

20. Restricted areas
(1) All wells, block stations, pump stations, tank farms and similar installations shall constitute a restricted area, the boundaries of which shall be clearly defined.

(2) Only persons authorised by a competent person shall be admitted to restricted areas.

(3) A notice shall be prominently displayed at the entrance of a restricted area giving details of the nature of the restrictions.

21. Fire precautions
(1) Convenient to each well being drilled or worked over, block station or other installation where petroleum is handled, there shall be provided and kept in readiness to the reasonable satisfaction of the Director of Petroleum Resources for immediate use, adequate means designed to extinguish fire.

(2) Each item of the fire fighting equipment shall be inspected and tested by a competent person appointed for the purpose at appropriate intervals; and the date of last inspection shall be painted on the appliance and the result of the inspection entered in a log book kept for that purpose.

(3) Personnel employed on a site shall be instructed in the use of the fire fighting equipment; and instructions to personnel in case of fire shall be clearly and concisely expressed and prominently displayed.

(4) “No smoking” signs shall be posted as needed in restricted areas.

(5) Whenever a gas or oil fire occurs at a well, block station or other installation handling petroleum, a report of the circumstances and probable cause shall be forwarded to the nearest inspector and to the Director of Petroleum Resources within forty-eight hours.

(6) When pipelines are run in open trenches, firestops shall be provided at such intervals as the Director of Petroleum Resources may require, save that the distance between any two firestops shall not exceed 300 feet.

22. Hydrogen sulphide
(1) The occurrence of hydrogen sulphide gas in any gas or oil well shall be reported to the nearest inspector and to the Director of Petroleum Resources within forty-eight hours.

(2) Tests shall be made immediately to determine the concentration of hydrogen sulphide, and if found hazardous, steps shall be taken immediately to protect all personnel working on the well; and the danger of breathing hydrogen-sulphide bearing gas shall be made known.
(3) The precautions taken shall include the provision of an adequate number of “blower”, or self contained oxygen or compressed air type breathing apparatuses at the well and on any subsequent well in the same field or on any other well likely to penetrate the hydrogen sulphide bearing formation.

23. Explosives
(1) The requirements of the Explosives Regulations shall be fully observed at all times.
(2) A report shall be made to the Director of Petroleum Resources whenever the use of explosives has been authorised by the manager under regulation 42 of these Regulations.

24. Reporting of accidents
(1) Where any accident occurs at any well or in connection with any operations under a licence or lease resulting in the death of or serious injury to any person, a full report thereon shall forthwith be forwarded to the nearest inspector and to the Director of Petroleum Resources who may order an inquiry to be made by an inspector.
(2) For the purposes of this Regulation, “serious injury” means —
(a) a fractured skull, pelvis, arm, thigh or spine, fore arm or leg;
(b) a dislocated shoulder;
(c) the amputation of an arm or hand, or of one finger or more on the same hand, or of a leg or a foot;
(d) the loss of the sight of an eye; or
(e) any other serious bodily injury, including internal haemorrhage, or burns or asphyxia where such injury is likely to endanger life, cause permanent incapacity or impair efficiency substantially.

[Cap. W6]

25. Inquiries into accidents
(1) An inspector holding an inquiry under regulation 24 shall, for the purposes of the inquiry, have the powers of a magistrate to summon witnesses, to call for the production of books and documents and examine witnesses and parties concerned on oath; and all summonses may be in the form in the Schedule to these Regulations and shall be served by the police or by such person as the officer issuing the same may direct.

(2) Any person summoned to attend or to produce books or documents as aforesaid and refusing or neglecting to do so or refusing to answer any question put to him by or with the concurrence of the officer holding the inquiry shall be liable on summary conviction to a fine of £100:

Provided that no person shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him at such inquiry, be entitled to the same privileges to which he would have been entitled if giving evidence before a court of law.

(3) Witnesses attending at the request of or upon summons by an officer holding the inquiry shall, subject to any order made by the officer, be entitled to the like expenses as if summoned to attend a magistrate court and payment shall be made in the same manner as if such person were a witness in a criminal trial.

26. Publication of Regulations
At every well being drilled for oil or gas or being worked over and in every installation handling petroleum, an abstract of these Regulations shall be prominently displayed at all times.

27. Offences
Any manager who fails to comply or ensure compliance with any regulation in this Part shall be liable on summary conviction to a fine not exceeding £100 or to imprisonment not exceeding six months or to both such fine and imprisonment.

PART IV
Duties of employees

28. Competent persons
It shall be the duty of every competent person appointed under regulation 6 to ensure that the provisions of the Regulations contained in this part are fully complied with.
29. **Safety precautions**
   No child or young person shall be on the derrick floor while any well is being drilled or repaired.

30. **Accumulation of rubbish**
   No person shall accumulate or permit the accumulation of flammable rubbish at any well, block station or other installation handling petroleum.

31. **Safety belts, hats and boots**
   1. Every person working on a drilling rig shall wear a hard hat and safety boots.
   2. Every person working at a fixed workstation above the derrick floor shall wear a safety belt:
      Provided that the provisions of this paragraph shall not apply to routine maintenance operations conducted in accordance with normal oilfield practice.

32. **Storage of loose tools in derricks**
   No tools, machine parts or other loose material of any kind shall be kept in the derrick above the derrick floor unless such articles are required for immediate use, in which case adequate precautions shall be taken to prevent injury to persons below.

33. **Counterbalance**
   No counterbalance shall clear the ground or derrick floor by more than five feet unless adequate precautions are taken to prevent injury to persons below.

34. **Machinery guards**
   1. No person shall remove or render ineffective any safeguard while the machinery relating thereto is in operation.
   2. Where it is necessary to make any adjustment or repair to any machinery, the machinery shall be shut down and shall not be operated again until the safeguard is replaced.

35. **Electrical apparatus**
   1. No person other than a duly qualified electrician or electrical engineer shall open or restore any flameproof or explosion proof enclosure, and on completion of any necessary adjustment or repairs within the enclosure, he shall ensure that it is so restored that the flameproof or explosion proof characteristics have not been impaired by such opening and closing.
   2. Adjustments to or repairs of apparatus within the flameproof or explosion proof enclosure shall not be carried out until all the live parts within it have been made dead and efficiently earthed.

36. **Signalling equipment**
   No person other than a duly qualified person shall repair, adjust or maintain any signalling equipment, and on completion of any repairs, adjustment or maintenance, he shall ensure that the intrinsic safety of the electrical circuit has not in any way been impaired.

37. **Sleeping, drinking etc. on duty**
   No person at any well or in any installation where petroleum is being handled shall -
   a. sleep while in charge of boilers or machinery; or
   b. consume any alcoholic liquor during the period he is on duty; or
   c. report for duty while under the influence of alcoholic liquor.

38. **Endangering safety by fire**
   No person at any well or in any other restricted area shall—
   a. smoke; or
   b. discharge any fire-arm or explosives; or use any naked light; or
   c. make any fire, except in such places as may be set aside and notified by the manager or any person authorised by the manager in that behalf as being safe for such purpose:
      Provided that a competent person may at his discretion authorise the welding of casing or machinery, but the authorisation shall be in writing giving details of the precautions that shall be taken for the prevention of fire.

39. **Examination of plant**
   A competent person shall at every well being drilled or worked over or installation where petroleum is handled, daily—
   a. examine the installation and shall record in a book kept for that purpose the stage thereof; and
(b) inspect the fire fighting and first aid equipment to ensure that—
(i) it is in its correct position,
(ii) access to it is unobstructed, and
(iii) it has been tested within the appropriate period for each appliance.

40. **Other safety measures**

A competent person shall be responsible for the observance of all safety measures at any drilling site or installation handling petroleum where work is in progress.

41. **Offences**

Any competent person who fails to comply or ensure compliance with any regulation in this part shall be liable on summary conviction to a fine not exceeding ₦100 or to imprisonment not exceeding six months or to both such fine and imprisonment.

**PART V**

*Miscellaneous*

42. **Explosives**

No person shall use any explosives at any well or in any installation where petroleum is handled, unless authorised by the manager.

43. **Buildings**

No person shall place any building in which fire or lights other than a flame-proof or explosion proof electric lighting installation are used within 150 feet of the centre of any borehole being drilled for or producing oil or gas or being worked over or within 100 feet of a dangerous area.

44. **Reporting unusual circumstances**

Any person employed under any licence or lease who notices any unusual escape of petroleum oil or gas from any well, pipeline or installation or anything unsafe or likely to produce damage shall forthwith inform the manager or competent person.

45. **Reporting of neighbouring workings**

The manager may report to the Director of Petroleum Resources if he has reason to believe that the operations of a neighbouring licence or lease are being conducted in such a manner as to endanger the safety of any persons in the vicinity.

46. **Delegation of powers of Director of Petroleum Resources**

The powers and duties of the Director of Petroleum Resources under these Regulations may be exercised or performed, as the case may be, by any public officer duly authorised in writing in that behalf by the Director of Petroleum Resources.

47. **Offences**

(1) Any person who acts in contravention of any provision of these Regulations for which no penalty is provided shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding 100 or to imprisonment not exceeding six months or to both such fine and imprisonment.

(2) Where under the provisions of these Regulations, a duty is placed upon any person the onus of proving that all reasonable steps have been taken to fulfill that duty shall lie upon the person charged with the breach thereof.
MINERALS OILS (SAFETY) REGULATION

Summons to witness

To:
(1) ...............................................................................................................................................................................
(2) ...............................................................................................................................................................................

You are hereby summoned to appear before the undersigned at .................................................................
....................................................................................................................................................................................
upon the ................................................ day of ...................... 20................. and to give evidence at any inquiry
being held into an incident at ........................................................ on the ........................................... day of ............
................................................................................... 20......................,   and you are required to bring with you
(3) ...............................................................................................................................................................................
....................................................................................................

Therein fail not at your peril

..................................................................................................
Inspector

(1) Insert name of intended witness
(2) Insert address of intended witness
(3) Name any document the intended witness will be required to produce
In the exercise of the powers conferred upon me by section 9(1)(a) and (b) of the Petroleum Act and of all powers enabling me in that behalf, I, Olusegun Obasanjo, President of the Federal Republic of Nigeria/Minister of Petroleum Resources hereby make the following Regulations:

1. Conversion of Oil Prospecting Licence to Oil Mining Lease

Notwithstanding the provisions of Regulation 2(3) of the Petroleum (Drilling and Production) Regulations 1969 as amended, the holder of an oil prospecting licence issued under the Petroleum Act, shall pursuant to paragraph 8 of Schedule 1 of the Petroleum Act, be eligible, upon conversion, to no more than one oil mining lease after satisfying the conditions stipulated in the Petroleum (Drilling and Production) Regulations.

2. Terms And Conditions of Additional Oil Mining Lease

(1) The holder of an oil prospecting licence which is eligible for conversion to an oil mining lease may however apply for the grant of and may be granted an additional oil mining lease from the same contract area upon satisfaction, in the Minister's opinion, of all the following terms and conditions—

(a) the quantum of the level of prospectivity and operational activity so far undertaken by the licence holder is sufficient justification for the grant of an additional oil mining lease;

(b) the licence holder and the contractor to the licence holder shall each have demonstrated sufficient financial and technical capability to justify the grant of the second oil mining lease;

(c) the licence holder and the contractor have accepted the terms and conditions of the grant of the second oil mining lease and such terms and conditions shall include—

(i) if the oil prospecting licence has been operated under the terms and conditions of a production sharing contract, the additional oil mining lease shall be developed under the terms and conditions of a new production sharing contract whose terms and conditions shall not be less favourable to the Federal Government than those applicable to the Nigerian National Petroleum Corporation in the Federal Government's model form production sharing contract operational at the time of the grant of the oil mining lease or at the commencement of these Regulations, whichever is the later and the applicable fiscal regime shall be that prevailing at the time of conversion unless otherwise determined by the Minister,

(ii) if the oil prospecting licence has been operated under the terms and conditions of a sole risk arrangement, the additional oil mining lease shall be developed under the terms and conditions of a joint venture arrangement that includes the participation of the Nigerian National Petroleum Corporation in accordance with the Deep Water Block Allocations to Companies (Back-in-Rights) Regulations 2003 and the applicable fiscal regime shall be that relevant to the holder of the additional oil mining lease, the location of the additional oil mining lease and prevailing at the time of conversion unless otherwise determined by the Minister, S.I. 7 of 2003,

(iii) if the oil prospecting licence has been operated under the terms and conditions of a joint venture arrangement then the additional oil mining lease shall be developed under the terms and conditions of a joint venture arrangement that includes the participation of Nigerian National Petroleum Corporation and on such terms and conditions as may be determined by the Minister and the applicable fiscal regime shall be that relevant to the holder of the additional oil mining lease the location of the additional oil mining lease and prevailing at the time of conversion, unless otherwise determined by the Minister.
3. The payment of a signature bonus on conversion shall be as prescribed by the Minister and the quantum of signature bonus payable for the conversion to the additional oil mining lease shall be at the discretion of the Minister who shall take into consideration the following—
(a) the current market value of the area to be covered by the oil mining lease;
(b) the level of operational activity and expenditure so far carried out by the holder before the application; and
(c) the competitiveness of signature bonus paid on the oil prospecting licence,

4. The quantum of production bonus payable for the additional oil mining lease (where applicable) shall be determined by the Nigerian National Petroleum Corporation.

5. With respect to the Government participating interest in any oil prospecting license, oil mining lease or an additional oil mining lease, such interest shall be governed by the prevailing legislation including those applicable to the Nigerian National Petroleum Corporation as contained in the Nigerian National Petroleum Corporation Act.

6. The provisions of regulation 2 (3) of the Petroleum (Drilling and Production) Regulations 1969, as amended, is hereby consequentially amended to the extent specified in these Regulations.

7. These Regulations may be cited as the Oil Prospecting Licences (Conversion Oil Mining Leases; etc.) Regulations 2004.

MADE at Abuja this 2nd day of December, 2003.

OLUSEGUN OBASANJO
President of the Federal Republic of Nigeria/
Minister of Petroleum Resources
OIL IN NAVIGABLE WATERS REGULATIONS 1968

ARRANGEMENT OF REGULATIONS

REGULATION

1. Short title and interpretation.
2. Equipment in ships to prevent pollution by oil.
3. Oil discharge records.
4. Oil transfer records.
5. Precautions to be taken when loading, discharging or bunkering oil.

SCHEDULE

PART I
ACCIDENTAL AND OTHER EXCEPTIONAL DISCHARGES OR ESCAPES OF OIL

PART II
A - BALLASTING OF AND DISCHARGE OF BALLAST FROM CARGO TANKER
B - CLEANING OF CARGO TANKS
C - SETTLING IN SLOP TANKS AND DISCHARGE OF WATER
D - DISPOSAL OF OILY RESIDUES FROM SLOP TANK(S) AND OTHER SOURCES

PART III
1. **Short title and interpretation**
   (1) These Regulations may be cited as the Oil in Navigable Waters Regulations.
   (2) In these Regulations, unless the context otherwise requires, expressions used have the same meaning as in the Oil in Navigable Waters Act.

2. **Equipment in ships to prevent pollution by oil**
   (1) Every Nigerian ship (other than a tanker) of 80 tons gross tonnage or over which uses her bunker fuel tanks for the carriage of ballast water shall be fitted with an oily-water separator in accordance with the provisions of this regulation.
   (2) The oily-water separator shall be of the following description—
     (a) it shall be of such design, construction and capacity as would be adequate for the purpose of separating oil from a mixture of oil and ballast water from the bunker fuel tanks of the ship;
     (b) it shall be of a type which will separate mixtures of residual fuel oil of specific gravity of not less than 95 (at 60°F) and water so that the oil content of the water after treatment in the separator does not exceed 50 parts per million;
     (c) it shall contain means for the taking of samples of the mixture entering the separator and of the separated water leaving the separator;
     (d) it shall be adequate in strength for the pressure at which it will be required to work and shall contain suitable provision for the prevention of over-pressure;
     (e) it shall be fitted with—
       (i) a pressure gauge,
       (ii) a cock or valve for draining when desired,
       (iii) a non-return valve at the mixture inlet to prevent flow-back; and
     (f) it shall be so designed that it can be inspected and cleaned internally.
   (3) Every separator fitted in accordance with the provisions of the regulation shall be connected to a pump capable of delivering the mixture to it at a rate that the capacity for which the separator is designed, measured in tons per hour, is not exceeded.

3. **Oil discharge records**
   (1) The master of every Nigerian ship (not being a tanker) of eighty tons gross tonnage or over which uses fuel oil shall maintain such record as relates to the following, that is—
     (a) any occasion on which oil or a mixture containing oil is discharged from his ship for the purpose of securing the safety of any vessel or of preventing damage to any vessel or cargo;
     (b) any occasion on which oil or a mixture containing oil is found to be escaping, or to have escaped, from any such ship in consequence of damage to the ship or by reason of leakage;
     (c) operations for carrying out on board or in connection with any such ship relating to—
       (i) the ballasting of oil tanks (whether cargo or bunker fuel tanks) and the discharge of ballast from, and cleaning of, such tanks, or
       (ii) the separation of oil from water or from other substances in any mixture containing oil, or
       (iii) the disposal of any oil or water, or any other substances arising from operations relating to any of the matters specified in the preceding sub-paragraphs, or any other substance arising from operations relating to any of the matters specified in the preceding sub-paragraphs, or
       (iv) the disposal of any other oil residues.
   (2) The records required to be maintained of the matters specified in sub-paragraphs (a) and (b) of paragraph (1) of this regulation shall be in the form set out in Part I of the Schedule to these Regulations and those to be maintained of the matters specified in sub-paragraph (c) of the said paragraph (1) shall be in the form set out in Part III of the said Schedule.

   [Schedule]
(3) The master of every Nigerian ship which is a tanker shall maintain a record in the form set out in Part I of the Schedule to these Regulations of the matters specified in paragraphs (a) and (b) of paragraph (1) of this regulation and in the form set out in Part II of that schedule of the matters specified in paragraph (c) of the said paragraph (1).

(4) The records required to be maintained in accordance with paragraphs (1), (2) and (3) of this regulation shall be retained in the ship for the duration of the voyage and therefore either in the ship at the principal office of the owners of the ship for a period of at least twelve months.

4. Oil transfer records

(1) There shall be kept by the master of every vessel, whether registered or not, and of whatever nationality a record of the particulars hereinafter specified relating to the transfer of oil to and from the vessel while it is within the seaward limits of the territorial waters of Nigeria.

(2) In the case of the transfer of oil to a barge, the record shall be kept by the person supplying the oil and in the case of the transfer of oil from the barge the record shall be kept by the person to whom the oil is delivered.

(3) The record required to be kept by paragraphs (1) and (2) of this regulation shall show clearly the following particulars:

   (a) the name and port of registry (if any) of the vessel or barge;
   (b) the date of transfer;
   (c) the place of transfer;
   (d) the amount and description of oil transferred;
   (e) the vessel, barge or place on land from or to which the oil was, as the case may be, transferred.

(4) The record of each operation shall be separately signed and date by the master or such other person as is referred to in paragraph (2) of this regulation.

(5) In the case of a ship the record required by this regulation may be kept in the ship's official log in which case the name or port of registry (if any) need not be stated.

5. Precautions to be taken when loading, discharging or bunkering oil

(1) In loading, discharging or bunkering oil, all vessels shall take the following precautions—

   (a) where no facilities exist for the proper draining of hoses the end should be suitably blanked;
   (b) when hose connections are being made or broken, drip trays shall be used to catch any spillage;
   (c) all scupper holes to which oil in the event of spillage would have access shall be tightly plugged for the duration of the operations;
   (d) care shall be taken to ensure that the vessel is securely moored so as to avoid any undue strain on the pipe connections between the vessel and the shore or between vessel and vessel;
   (e) hoses and all other equipment to be used shall be inspected and where any damage is detected such damage shall be repaired before commencing operations;
   (f) any oil accidentally split on deck or on the quay, pier or jetty shall be immediately bailed up and disposed of into the cargo tanks or bunkers or ashore;
   (g) the means of communication between vessel and shore or between vessel and vessel shall be checked and all signals to be used thoroughly understood;
   (h) when the loading of a tanker or tank barge is completed all tank hatch lids shall be immediately secured and all other openings communicating to the tanks, other than those controlled by a relief valve, rendered impassable to oil.

(2) The following precautions shall be observed in relation to bunkering operations -

   (a) the master of any ship being bunkered from any other vessel or from a shore installation shall appoint a responsible officer to personally supervise the bunkering operation;
   (b) before bunkering commences—

      (i) all air vent pipes shall be inspected to ensure that displaced air and gases can escape freely,
      (ii) the master shall ensure that ullages or soundings are taken to determine the quantity of oil on board in order to ensure that the bunker space will accommodate the amount of the expected delivery;
   (c) where one of the fuel storage tanks is set aside as an overflow tank it shall be the last to be filled;
   (d) during bunkering operations frequent soundings shall be taken and the rate of the delivery shall be slowed down during "topping off"; and where possible, "topping off" of double bottom tanks shall be done from deep banks.

(3) Where fuel oil is being transferred from one space to another within a ship the following precautions
shall observed—
(a) care shall be taken to ensure that overboard discharge connections from the oil transfer pumps are properly closed and secured against accidental overboard discharge;

(b) care shall be taken to ensure that—
(i) the air vent pipes of the setting tanks are free from blockages,
(ii) the overflow pipes leading from the settling tanks to fuel storage tanks are in order and that sounding arrangements or oil level indicating gear on the settling tanks do not allow the escape of oil in the event of accidental overfilling of the settling tanks.

(4) Where tanks used alternately for fuel oil and water ballast are being filled with such ballast the following precautions shall be observed—
(a) if a pump is issued, the pump must be started before the sea valves are opened;
(b) during ballasting, all tanks shall be inspected to ensure that only the tanks which are intended as ballast are receiving water;
(c) on completion of ballasting, the sea valves must be closed before the pump is stopped (if used) so as to prevent the escape into the sea of any oil or any oil contaminated water which may be in the lines.

(5) In the engine rooms or other machinery spaces of tankers the following precautions shall be observed—
(a) a close watch shall be kept on the oily bilge, gutter ways or other arrangements provided to confine oil leakage from tank sides and mountings, fuel oil pumps and the like; and any accumulation of fuel oil shall be transferred to a bunker or settling tank well before risks or overflow to the ordinary bilges arises;
(b) trays beneath oil pumps, heaters and burners shall be kept clean so that any leaking will be immediately apparent and can be dealt with before it pollutes the ordinary engine room or boiler room bilges;
(c) all fuel oil pipes within the engine or boiler room, and especially those in which the oil is under pressure shall be inspected regularly to ensure early detection of any leak which would result in contamination of the ordinary bilges with oil fuel.

(6) The master of any ship and the person in charge of any tank barge shall ensure that a careful inspection of the ship’s or barge’s hull is carried out at regular intervals for the purpose of detecting any leakage of oil.

(7) In addition to the foregoing provisions of this regulation, the master of a tanker shall observe the following precautions—
(a) before loading commences—
(i) all sea valves and deck overboard discharge valves on the oil and ballast lines shall be tightly closed,
(ii) all deck valves which are to be used shall be properly closed and where practicable blanked off, and
(iii) all valves which are to be used shall be inspected to see that they are free and in good order;
(b) loading must begin at a slow rate and after loading has started the tanks which are being loaded shall be inspected and the water round the ship’s side shall also be inspected; and if loading is proceeding satisfactorily the rate may be gradually increased until the desired loading rate is obtained when a further inspection must be made but no more tanks shall be loaded at any one time than can be safely watched and controlled;
(c) the depth of oil in each cargo tank which is being loaded shall be constantly watched and the receiving rate shall be appropriately reduced towards the final stages of loading and to allow time for orderly control the slowing down of the receiving rate necessary during the “topping off” process should be anticipated and appropriate notice given to the staff in charge of the delivery; and after any tank valve has been closed the liquid level in that tank shall be checked to ensure that the valve is properly closed;
(d) before discharging, all cargo deck line valves, sea valves and any stern loading and discharge valves which are not to be used shall be inspected to ensure that they are tightly closed and where practicable such valves shall be set to the discharging position and checked to see that they are free and in good order;
(e) after hoses are connected no discharging shall commence until after the shore staff have indicated that they are ready to receive cargo; and where the back pressure in the shore lines is such that there is a possibility of oil flowing from the shore to the ship, the ship’s valve at the shore connection shall not be opened until the pressure is equalised;
(f) at the commencement of discharging the cargo pumps shall be started slowly and the working pressure gradually built up; but during this process a constant watch shall be kept on the discharge
pressure in order to ensure that the shore receiving lines are clear and that an excessive pressure is not being built up in the cargo lines; and when the desired rate of discharging has been reached a further inspection shall be made of any stern or other discharge valves not in use, of the cargo, hose and hose connections and of the water round the ship's side to see that no oil is escaping;

(g) at frequent intervals during the discharging operations conditions in the pump room, the operating pressure in the cargo system and possible points of leakage shall be inspected; and the ship shall always be prepared to stop loading at short notice.

SCHEDULE
[Regulation 3.]

PART I

Accidental and other exceptional discharges or escapes of oil

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<tr>
<th>No</th>
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<tbody>
<tr>
<td>1</td>
<td>Date and time of occurrence</td>
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<tr>
<td>2</td>
<td>Place or position of ship</td>
</tr>
<tr>
<td>3</td>
<td>Approximate quantity and type of oil</td>
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<tr>
<td>4</td>
<td>Circumstances of discharge or escape and general remarks</td>
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</table>

Signature of officer or officers in charge of the operations concerned

Signature of Master

PART II

A. — ballasting of and discharge of Ballast from Cargo Tanker

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<tr>
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<tbody>
<tr>
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</tr>
<tr>
<td>2</td>
<td>Date and time of discharge of ballast water</td>
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<tr>
<td>3</td>
<td>Place or position of ship at the time of discharge</td>
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<td>4</td>
<td>Approximate amount of oil contaminated water transferred to slop tank(s)</td>
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<td>5</td>
<td>Identify numbers of slop tank(s)</td>
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<td>6</td>
<td>Date of Entry</td>
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<tr>
<td>7</td>
<td>Identity numbers of tank(s)</td>
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<td>8</td>
<td>Type of oil previously contained in tank(s)</td>
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### B. — Cleaning of Cargo Tanks

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<td></td>
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<tr>
<td>9</td>
<td></td>
<td>Type of oil previously contained in tank(s)</td>
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<td>10</td>
<td></td>
<td>Identity numbers of slop tank(s) to which washings transferred</td>
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<td>11</td>
<td></td>
<td>Dates and times of cleaning</td>
</tr>
</tbody>
</table>

### C. — Settling in Slop Tanks and Discharge of Water

<table>
<thead>
<tr>
<th>No</th>
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<th>Identity numbers of slop tank(s)</th>
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<tr>
<td>12</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13</td>
<td></td>
<td>Period of settling (in hours)</td>
</tr>
<tr>
<td>14</td>
<td></td>
<td>Date and time of discharge of water</td>
</tr>
<tr>
<td>15</td>
<td></td>
<td>Place or position of ship</td>
</tr>
<tr>
<td>16</td>
<td></td>
<td>Approximate quantities of residue</td>
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</tbody>
</table>

### D. — Disposal of Oily Residues from Slop Tank(S) and Other Sources

<table>
<thead>
<tr>
<th>No</th>
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<th>Date and method of disposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>17</td>
<td></td>
<td></td>
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<tr>
<td>18</td>
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<td>Place or position of shop at time of disposal</td>
</tr>
<tr>
<td>19</td>
<td></td>
<td>Sources and approximate quantities</td>
</tr>
</tbody>
</table>

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Signature of officer or officers in charge of the operations concerned

Signature of Master
**PART III**

<table>
<thead>
<tr>
<th>No</th>
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<tbody>
<tr>
<td>a</td>
<td>Ballasting, during voyage of bunker fuel tanks</td>
</tr>
<tr>
<td>1</td>
<td>Identity number of tank(s)</td>
</tr>
<tr>
<td>2</td>
<td>Type of oil previously contained in tank(s)</td>
</tr>
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<td>3</td>
<td>Date and place of ballasting</td>
</tr>
<tr>
<td>4</td>
<td>Date and time of discharge of ballast or washing water</td>
</tr>
<tr>
<td>5</td>
<td>Place or position of ship</td>
</tr>
<tr>
<td>6</td>
<td>Whether separator used: if so, given period of used</td>
</tr>
<tr>
<td>7</td>
<td>Disposal of oily residue retained on board</td>
</tr>
<tr>
<td>b</td>
<td>Disposal from ship of oily residues from bunker fuel tanks and other sources</td>
</tr>
<tr>
<td>8</td>
<td>Date and method of disposal</td>
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<td>9</td>
<td>Place or position of ship</td>
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<td>10</td>
<td>Sources and approximate quantities</td>
</tr>
</tbody>
</table>

*Signature of Officer or Officers in charge of the operations concerned*

*Signature of Master*
In exercise of the powers conferred upon me by section 9(1)(a) and (b) of the Petroleum Act and of all other powers, enabling me in that behalf, I, Olusegun Obasanjo, President of the Federal Republic of Nigeria/Minister of Petroleum Resources, hereby make the following Regulations:

1. The provisions of these Regulations shall apply to all marginal field operations in Nigeria.

2. (1) The fiscal terms specified in this paragraph for marginal field operations shall be applicable as follows —
   (a) for production below 5,000 bopd  2.5 per cent;
   (b) for production between 5,000 bopd and 10,000 bopd  7.5 per cent;
   (c) for production between 10,000 bopd and 15,000 bopd  12.5 per cent;
   (d) for production between 15,000 bopd and 25,000 bopd  18.5 per cent;

   (2) The provisions of this paragraph supercedes any other existing fiscal terms on marginal field operations in Nigeria.

3. Subject to the prior approval of the Director of Petroleum Resources, fluid production from two or more reservoirs in a marginal field may be commingled following the compatibility of the reservoir fluids and pressures.

4. These Regulations may be cited as the Marginal Fields Operations (Fiscal Regime) Regulations 2005.

MADE this 30th day of September 2005.

OLUSEGUN OBASANJO
President of the Federal Republic of Nigeria/
Minister of Petroleum Resources

EXPLANATORY NOTE
(This note does not form part of the above Regulations but is intended to explain its purport)

The Regulations provide for the fiscal regime for marginal field operations in Nigeria.
NATIONAL DOMESTIC GAS SUPPLY AND PRICING POLICY

The purpose of this document is to define the policy of the Federal Government of Nigeria in respect of the pricing of gas, to be supplied to customers in the downstream gas sector.

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(A) INTRODUCTION — POLICY ASPIRATION

(B) GROUPING OF STRATEGIC DEMAND SECTORS
   (i) Strategic Domestic Sector
   (ii) Strategic Industrial Sector
   (iii) Commercial Sector

(C) GAS PRICING REFORM

(D) THE GAS PRICING FRAMEWORK
   (i) Regulated Pricing Regime
   (ii) Pseudo-Regulated Pricing Regime
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(E) IMPLEMENTATION
   (i) The Downstream Gas Act
   (ii) Domestic Gas Reserves and Production-Obligation
   (iii) The Aggregate Price and the Strategic Gas Aggregator

CONCLUSION

THE NATIONAL DOMESTIC GAS SUPPLY AND PRICING POLICY

(A) INTRODUCTION — Polity Aspirations
Given the abundance of Nigeria's gas resources, Government has identified the accelerated development of the domestic gas sector as a focal strategy for achieving the national aspiration of aggressive GDP growth (10% per annum). Domestic gas is defined as gas utilized locally within the shores of Nigeria, either for home, industrial and/or electric power use. Specifically for industrial use, gas used in value adding industries such as methanol, fertilizer etc. is considered domestic gas, regardless of whether the end product (i.e. fertilizer, methanol) is consumed locally or exported.

Gas export (LNG and pipeline) provide high returns to government, through tax receipts and dividends for equity stake. However, it is recognized that beyond economic rent, there are broader Strategic benefits to the economy that may be attained from the domestic utilization and value addition to natural gas. In essence, in addition to exporting of natural gas, Nigeria must develop strategies to ensure increased domestic utilization.

Rising gas prices in key international markets however, continues to create a preferential pull for exports. Consequently, there is a disproportionate focus by gas suppliers in the country for LNG projects. This is creating an anomaly in Nigeria, where there is now a significant shortfall in the availability of gas for domestic utilization. The continued shortfall directly threatens, the economic aspirations of the nation, which if unchecked, may result in Nigeria supporting the development of the economies of the industrialized nations, at the expense of its own economy.

The energy requirement to sustain an aggressive GDP growth is enormous. Currently, total demand (export and domestic) for natural, gas far outstrips supply. The demand is driven by growth in the Power sector and other gas based industries, such as Fertilizer, Methanol, LNG etc. Gas demand is forecast to grow from the current level of 4bcf/d to about 20bcf/d by 2010. In the short term, the growth in the domestic sector is particularly most aggressive, growing from less than 1 bcf/d in 2006 to about 7 bcf/d by 2010. This demand
growth is underpinned largely by the power sector and by an increasing requirement by large industries such as fertilizer and methanol that require gas in high quantities. These industries which are unable to compete in high gas cost locations, have expressed strong interest in relocating to Nigeria.

Nigeria needs to demonstrate availability and affordability of gas or else, risk losing these industries to competing nations like Egypt, Trinidad etc. The scale of demand growth relative to supply growth, creates an immediate availability challenge. In addition, is the challenge of price affordability and hence gas pricing. The domestic demand sectors such as electric power, fertilizer, methanol etc. have varying capacity to bear gas prices (Fig. 1). For example, the Nigerian Power sector, has a lower gas price threshold than a Methanol industry. Government is however keen to stimulate the growth of all these sectors. Timely availability, affordability and commerciality of supply of natural gas, is a critical pre-condition for realizing the government’s aspiration for the domestic economy.

In recognition of the urgent need for domestic gas availability and a pricing framework to drive and sustain a major gas based industrialization in Nigeria, this policy document seeks to:

1. provide solutions to the issue of gas pricing;
2. address domestic gas supply availability, in a manner that delicately balances the need for domestic economic growth and revenue generation from exports; and
3. provide an implementation approach for the gas pricing, that enables the full participation of all gas suppliers in the country, in a manner that ensures sustained gas supply to the domestic market.

Fig. 1.0 OVERVIEW OF GAS PRICE BEARING CAPACITY OF VARIOUS SECTORS

The need for a pricing strategy that recognises the diversity in the ability of the various industrial sub-sectors to bear gas price, cannot be overstated. Such strategy will not, only enable and sustain diversity of the demand sectors, thereby enabling Nigeria to benefit from the industrialisation potential that is inherent in gas, it will also enable the selective maximization of net revenues for Nigerian gas, from sectors that are most able to deliver that direct economic benefit.

From a as pricing strategy perspective Government has grouped the entire domestic demand into three broad groupings. This grouping in recognition of the fact that, the different demand sectors have different strategic benefits to the country and different pricing considerations. Fig. 2.1 below presents the 3 categories. Any demand sector will fall into one of these categories and where there is a lack of clarity, the Minister for Energy will determine the classification of such sector.
The groupings are:

(i) **Strategic Domestic Sector**— This refers to a very limited set of sectors that have a significant direct multiplier effect on the economy, namely the Power Sector (residential and light commercial users) or other sectors that, the Honourable Minister for Energy may, from time to time, consider applicable. The strategic intent in gas pricing is to facilitate and ensure low cost gas access to these sectors in order to spur rapid economic growth.

(ii) **Strategic Industrial Sector**— This refers to industries that utilise gas as feedstock in the production of value added products that are primarily destined for export or in some cases, consumed locally. Strategically these sectors ensure that value is added to Nigerian gas before it is exported. The process of value addition ensures industrialization, job creation etc. Typical projects in this group are Methanol, GTL and Fertilizer. For this sector, the strategic intent in pricing is to ensure that feedgas price is affordable and predictable, in order to ensure competitiveness of the products in international markets, in the face of competition from other gas producing countries such a Qatar Trinidad etc. that provide gas at very low prices to buyers.

(iii) **Commercial Sectors**— This refers to sectors that use gas as fuel; as opposed to feedstock. Unlike the two previous classifications, projects in this category are a potential major direct revenue earner for Nigerian gas, in view of their capacity to bear high gas prices as the competing alternative fuel is LPFO.

Typical sectors in this category include, cement and domestic manufacturing industries, industrial Power, etc.

(C) **GAS PRICING REFORM— LIQUIDS BASED PRICING APPROACH**

A widely known characteristic of Nigerian gas, is its relative richness in liquids i.e. NGLs continue to attract a high price in international markets (similar trend in crude oil pricing). As a result of the potential high revenue that comes from NGLs produced in conjunction with residue dry gas, it is possible for a gas supply project to accommodate a relatively lower price for the residue dry gas and still be a profitable supply project. Residue dry gas is used mostly in the domestic market.

This gas pricing policy aims to exploit this intrinsic value of NGLs, in deriving a relatively low gas price for the strategic domestic sector—Power. It is recognized that, not all gas resources in the country are rich in NGLs, consequently, it is intended that this philosophy be applied selectively, —especially in the short term, as the Power sector is currently unable to pay higher price for gas (in view of the low end user power tariff that currently obtains in Nigeria). It is however the expectation that, in the medium term, power tariff will be more commercial and a higher gas price will be achievable.
Based on an assumption of $40/bbl long run NGL price, it has been established that across the Niger Delta, there is limited volume of gas reserves for which the marginal cost of development and supply can be met profitably with a dry gas price of $0.1/mcf. This assumes that the supplier receives $0.1/mcf for the residue dry gas, in addition to other NGL revenues at $40/bbl. It is the intent of this policy that this category of gas reserves be deployed for use in the strategic domestic sectors. $0.10/mmbtu is therefore established as the floor price for the strategic domestic sector. This low price is in line with the strategic intent of ensuring a low cost gas supply to those critical sectors of the economy.

In addition, based on existing transmission infrastructure cost in Nigeria and international benchmarks, a transmission tariff (on postage stamp basis) of $0.30/mmbtu is proposed. The Honourable Minister of Energy may revisit this tariff, from time to time, as appropriate.

(D) THE GAS PRICING FRAMEWORK
The gas pricing framework proposed in this policy, is a transitional pricing arrangement. The Honourable Minister of Energy (Gas) will, monitor the environment and determine when the domestic market is fully developed and an alternative pricing approach is required.

It is important to establish 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 3 categories of demand sectors presented in section B. 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.

Figure 3.1 below, presents a schematic of the pricing framework. 3 distinct price regimes are evident in the framework, corresponding to 3 different approaches for determining the floor price. The 3 approaches include:
(a) Cost of supply basis (regulated pricing regime);
(b) Product netback price basis and (pseudo-regulated pricing regime); and
(c) Alternative fuels basis (market led regime).

(i) The Regulated Pricing Regime (cost of supply basis)— This pricing approach applies specifically to the strategic domestic sectors of Power. As discussed in section C, the floor price for this category is determined primarily by establishing the lowest cost of supply that allows a 15 per cent rate of return to the supplier. This has been established as $0.1/mmbtu, for a limited volume of gas reserves. These reserves will therefore be assumed dedicated to the strategic domestic sector.

(ii) The Pseudo-Regulated Pricing Regime (Product Netback basis)— The second floor price determination approach, applies strictly to strategic industrial sectors, i.e. sectors that use the gas as feedstock. For this group, the floor price is not based on the cost of supply of the gas, but on the netback of the product price. The product price used in determining the floor price is the assumed long run price of the product. With this approach, the pricing of gas will better reflect the ability of the sector to pay, given the price of its product. However, since the intention of this policy is not to support sectors that are unviable, i.e. sectors whose netback price translates to a gas floor price lower than the cost of supply of gas, the consideration of affordability will not be at the expense of sustainability of gas supply.

(iii) The Market Led Regime (Alternative Fuels Basis)— The third floor price determination approach, applies to all other sectors that use gas as fuel or wholesale buyers, buying gas for subsequent resale. For this category, the price of gas is indexed to the price of alternative fuel such as LPFO. The indexation will be established during negotiation.

The foregoing structure provides the basis for the pricing framework illustrated below. 3 segments can be identified in the framework, consistent with the 3 demand sector groupings, starting with the lowest priced sector, the strategic domestic sector to the highest freed sector—the commercial sectors. It is assumed that pricing for each demand sector will transition to the next higher pricing band, once a saturation level has been attained. For example, for the strategic domestic sector, once the domestic requirement has been met (domestic saturation point) and Power is flow being exported, the framework proposes that export Power benefits from a relatively higher price, determined by the netbacking philosophy applied to strategic industrial sectors such as methanol. Similarly, once the capacity of a strategic industrial sector exceeds an export saturation limit (i.e., once Nigeria’s export capacity for that sector, fertilizer is assumed to have reached an acceptable limit), any incremental capacity will attract a much higher price, consistent with that of commercial sector buyers. Through this transitional mechanism, pricing can be aligned with required capacities within the economy.
(iv) **Indexation**— It is important to reiterate that the entire gas pricing framework simply specifies the floor price. Actual prices will include, an escalation for inflation and an indexation to real time product price (which may be higher than the long run price used in the determination of the floor price) and/or any other indices, considered appropriate by both buyer and seller of the gas. The indexation will be determined through a process of negotiation.

(E) **IMPLEMENTATION**

(i) **The Downstream Gas Act**— To underpin the proposed pricing framework, Government will establish a Regulatory Agency, the Gas Regulatory Commission, (otherwise referred to as GRC) through the proposed Downstream Gas Act. Amongst other functions, the Commission will have the power, where necessary, to regulate the price of gas supplied and utilized in the downstream gas sector and the power to promote reliable and efficient use of gas throughout Nigeria. It will also have the power to monitor and impose pricing restrictions on licensees. Pending the establishment of this GRC however, an interim agency, will be set up by the Minister, is a department within the Ministry of Energy (Gas).

Consistent with the pricing principles established by the Act, the Commission will have the power to regulate the prices charged by licensees where competition has not developed to such an extent as to protect the interest of consumers. The relevant pricing principles in this regard are cost reflectivity, price disaggregation and the earning of a reasonable return on investment by licensees.

A Transitional Pricing Plan, setting out temporary or transitional pricing arrangements, allowing for a gradual transition towards pricing arrangements that are consistent with the pricing principles above, shall be introduced by the Downstream Gas Regulatory Agency. The gas pricing framework presented in the policy document, is designed to achieve this objective.

(ii) **Domestic Gas Reserves and Production Obligation**— In implementing this pricing policy, it is essential that there is sufficient gas available for the various demand sectors. To facilitate this, a domestic gas supply and reserves obligation will be imposed on all operators in the country. In essence, all gas (AG and NAG) asset holders, will be required to dedicate a specific proportion of their gas reserves and production for supply to the domestic market. This is the “Domestic Reserves Obligation”.
The reserve obligation will be broken down annually to a production obligation for the same period. The sum total of all obligations will equal the planned domestic requirement for the stated period. Periodical reviews to the domestic obligation will take place to reflect the changing demographics of the demand and supply landscape, i.e. new demand will be allocated accordingly, as new suppliers come on stream.

The Minister for Energy will periodically, stipulate the reserves and production obligation of the various operators. The allocation of the obligation across operators, will be based on the principles of equity to be determined by the Minister.

(iii) *The Aggregate Gas Pike and the Strategic Gas Aggregator*— The gas pricing framework, stipulates a pricing regime for various demand sectors, ranging from a floor price of about $0.1/mcf for the strategic domestic sectors, to over $2/mcf for the commercial sectors. The Aggregate Domestic Gas Price is the forecast average domestic price, based on the projected total domestic demand portfolio, using the relevant prices proposed by this framework.

All suppliers of gas in the country will be paid the aggregate domestic gas price. A target aggregate price will be set by the Gas Regulator, based on the known portfolio of domestic demand. The portfolio will be balanced continually, to ensure that the aggregate price does not fall below, the threshold. In essence, the suppliers have a fixed pride, whilst the buyers will pay the sector price proposed in the framework. The aggregate pricing will ensure that regardless of their geographical location, all suppliers are able to benefit from the high priced customers, as well as from the low priced buyers. The aggregate price will ensure that the suppliers receive an acceptable return for their domestic obligation. A Strategic Aggregator (under the auspice of the Department of Gas or the GRC) will manage the implementation of the domestic reserves and production obligation and the aggregate price. It will ensure a balanced growth of the domestic portfolio, such that, the target minimum aggregate price is achieved, whilst not compromising the nation's primary objective for economic growth, by ensuring the availability of adequate volumes of gas to the strategic domestic sectors.

Conceptually, the Strategic Aggregator, acts as a one stop intermediary point between the suppliers and the diverse demand sectors and will ensure that gas is supplied at the aggregated price. Through a Gas Management Model, the Strategic Aggregator, plays the role of portfolio manager, on behalf of all suppliers, the primary objective being to preserve a minimum aggregate price portfolio. When the aggregate price is higher than the minimum threshold, an agreed portion will be paid out to the suppliers, whilst the balance will be retained as cushion in the event that the portfolio mix for unavoidable reasons falls below the target minimum threshold.

*Conclusion*

The National Domestic Gas Supply and Pricing Policy therefore, aims to fully align the gas sector with the economic growth aspiration of the nation. This policy will be applied, in conjunction with the Gas Pricing regulations and modifications thereto.
NATIONAL GAS SUPPLY AND PRICING REGULATIONS, 2008

ARRANGEMENT OF REGULATIONS

REGULATION

1. Establishment of the Department of Gas Resources.
2. Powers of the Department of Gas Resources.
6. Domestic Gas Demand Requirement.
7. Penalties for non-compliances with Gas supply Obligation.
8. Procedure for Gas supply.
10. Interpretation.
11. Citation.

NATIONAL GAS SUPPLY AND PRICING REGULATIONS, 2008

Commencement [11th January, 2008]

In exercise of the powers conferred on me by section 9 of the Petroleum Act and paragraph 35 of the first Schedule to the Petroleum Act and other powers enabling me in that behalf, I, Emmanuel Olatunde Odu Sinai, Honourable Minister of State our Energy, Gas the following Regulations.

[S. I. 4 of 2008]

1. There is hereby established, a Department for the Ministry of Energy, to be known as the Department of Gas Resources.

2. The Department of Gas Resources shall have the power to—
   (a) regulate the gas sector, in accordance with these and other Regulations, the National Gas Master Plan and national policies as may be issued in respect of the gas sector, from time to time, by the Federal Government;
   (b) regulate the exploration, development, gathering, treatment, processing, and utilization of hydrocarbon gas;
   (c) issue permits and licences, as it relates to the gas industry;
   (d) maintain constant surveillance over indices relevant to gas pricing, identify macro-economic factors with relation to the price of Gas and advice the Federal Government on appropriate strategies;
   (e) at the beginning of each year, announce the annual Domestic Gas Demand Requirement;
   (f) allocate Domestic Gas Supply Obligation to every person licenced to produce petroleum, at the beginning of every year;
   (g) establish the Aggregate Price which shall be used by the Gas Aggregator, as a basis for gas supply to the domestic sector;
   (h) establish the guidelines and codes of conduct, for all operators in the gas sector;
   (i) ensure equitable and transparent access, to the gas transportation network;
   (j) subject to the approval of the Minister, determine the Domestic and Export Saturat on Indices for all sectors;
   (k) arbitrate on all issues of conflict between purchasers, suppliers and the Gas Aggregator.

3. A Domestic Gas Aggregator shall be established by the Department of Gas, in consultation with suppliers of gas.
4. The Domestic Gas Aggregator shall—
   (a) implement a Gas Management Model, through which the demand and supply of gas for utilization within Nigeria shall be monitored;
   (b) operate it nominations and balancing mechanism for equitable curtailment of gas production, whenever demand and supply expediencies require;
   (c) ensure transparency of dealing between gas suppliers and purchasers; and
   (d) act as an intermediary, between suppliers and purchasers of gas in the domestic market and ensure the supply of gas to the Strategic Sectors, in accordance with the approved national gas pricing framework.

5. The Domestic Gas Aggregator shall have the power to—
   (a) ensure that the Domestic Gas Demand Requirement is achieved, through the implementation of the Domestic Gas Supply Obligation;
   (b) ensure a balanced growth of domestic gas project, through the availability of adequate volumes of gas to the Strategic Sectors;
   (c) open and manage an Escrow Account with an Escrow Agent, approved by the Department of Gas;
   (d) direct purchasers of gas to make payment for gas supply into the Escrow Account, in accordance with the payment schedules agreed by the gas suppliers, gas purchasers and the Domestic Gas Aggregator;
   (e) make payment to gas suppliers, in accordance with the minimum Aggregate price and appropriate indexation for the gas supplied;
   (f) prepare and provide annually, a detailed audit report of the Escrow Account, to all suppliers of gas; and
   (g) do all such things as are necessary for or incidental to the carrying out of its functions and duties under these Regulations.

6. Every person or company licensed to produce petroleum shall —
   (a) submit a gas production and supply plan, consistent with its obligations under the Domestic Gas Demand Requirement, to the Department of Gas;
   (b) when required, supply a specific volume of gas to a purchaser, in accordance with a Gas Purchase Order issued by the Domestic Gas Aggregator;
   (c) pay compensation to any purchaser, for any losses suffered as a result of default to supply gas, in compliance with the order of the Domestic Gas Aggregator.

7. From the commencement of these Regulations, any supplier who does not comply with its Domestic Gas Supply Obligations as specified by the Department of Gas shall—
   (a) pay for tire volumes not supplied, based on the take or pay provisions of the executed GSPA or at a Price of US $3.50/MScf, whichever is higher, the penalty of which shall be reviewed whenever the Minister deems fit; and
   (b) not supply gas to any export project, in addition to any other penalties that the Minister deem lit.

8. (1) The sale and supply of gas shall, commence with an application by the procedure for Purchaser to the Domestic Gas Aggregator, for a Gas Purchase Order.
   (2) Upon receipt of the application, the Domestic Gas Aggregator shall, conduct due diligence on the purchaser, with a view to determining its ability to engage in wholesale purchase of gas.
   (3) Upon a satisfactory due diligence, the Domestic Gas Aggregator shall issue a Gas Purchase Order to the purchaser.
   (4) The Gas Purchase Order shall specify—
      (a) the gas supplier expected to supply the required gas;
      (b) the quantity of the gas to be supplied to the purchaser;
      (c) the price payable in respect of the gas to be supplied;
      (d) the delivery schedule;
      (e) revenue due to the gas supplier; and
      (f) other details as may be determined by the Domestic Gas Aggregator.
   (5) The issuance of a Gas Purchase Order by the Domestic Gas Aggregator shall, be sufficient evidence that a quantity of gas has been allocated or supply to a purchaser, in accordance with the Domestic Gas Demand Requirement.
The Domestic Gas Aggregator shall attach to the Gas Purchase Order, master gas sales and purchase agreement, which will contain the operational and commercial issues relevant to the transaction.

9. The Minister shall have the power to—
(a) review or amend, alter, add to or delete any provision of these Regulations, as he may deem lit;
(b) consult with the representatives of relevant stakeholders, prior to the review and amendments pursuant to sub-regulation (a) of this Regulation (c) in reviewing, or amending these Regulations, take into consideration., the findings of the consultative process, carried out pursuant to sub-regulation (b) of this Regulation;
(d) allocate gas to the various domestic demand sectors;
(e) from time to lime, identify and prioritize specific export projects, that have strategic impact on the development of domestic gas market, for consideration and inclusion in the Domestic Gas Demand Requirement; and
(f) impose any other penalties for non-compliance, pursuant to regulation 7 of these Regulations.

10. In these Regulations, unless the context otherwise requires—
“Aggregate Price” means the price for the supply of gas, which shall be reflective of the average cost of gas supply in Nigeria, for the Domestic Gas Demand Requirement;
“Domestic Gas Demand Requirement” means an aggregate of the volume of gas, required to meet the gas demand for strategic sectors, within the domestic economy for a specific period of time;
“Domestic Gas Supply Obligation” means the obligation of every person or body corporate licenced to produce petroleum, to dedicate a specific volume of gas, towards the Domestic Gas Demand Requirement and to deliver the gas to a purchaser, in accordance with a specified nominations procedure;
“Domestic Saturation Index” means the point at which the sector production capacity, fully meets an aspired domestic requirement for that sector;
“Escrow Account” means the account referred to in regulation 5 of these Regulations;
“Export Saturation Index” means the point at which the price of gas for sale to any domestic project, would be allowed to compete with the price of gas at the international market;
“Gas Management Model” means a model for managing the gas reserves held by every person, licenced to produce petroleum in Nigeria and in addition, monitor the demand and supply of gas to the Strategic Sectors and other domestic projects;
“Gas Purchase Order” means the Gas Purchase Order referred to in regulation 8 of these regulations;
“Minister” means the Minister for the time being, charged with responsibility for matters relating to Gas resources;
“Ministry” means the ministry charged with the, responsibility for Energy;
“National Gas Master Plan” means the gas master plan, developed by the Federal Government, from time to time, for the sustainable development and utilization of Nigeria’s natural gas resources;
“Strategic Sectors” means the Strategic Domestic Sectors, as defined by the Federal Government, in the National Domestic Gas Supply and Pricing Policy, as strategic to the attainment of its economic policy aspirations.

11. Citation
These Regulations may be cited as the National Gas Supply and Pricing Regulations, 2008.
In exercise of the powers conferred upon me by section 9(b) (iv), (g) of the Petroleum Act 1990 and all other powers enabling me in that behalf, I, DR. EDMUND DAUKORU Honourable Minister of Energy, hereby make the following Regulations.

1. These Regulations may be cited as National Data Repository Regulations, 2007.

2. There is established in the Department of Petroleum Resource of the Ministry of Energy, National Data Repository (otherwise referred to as “the Repository”).

3. The Repository shall:
   (a) House for easy accessibility, oil exploration and production data and information under a common platform;
   (b) Provide the necessary data base for optimal evaluation and assessment of the potentials of the exploration and production basins in the country;
   (c) Provide a digital platform for future bidding exercise that would place Nigeria in a competitive position especially for new investors;
   (d) Provide adequate monitoring regulatory tool for the Department of Petroleum Resources (DPR) and all Oil and Gas assets across the nation;
   (e) Perform such other functions as in the opinion of the Minister may serve to Promote the objectives of the Repository.

4. The Minister may, set up an Advisory Committee (otherwise referred to as “the Committee”) to advise him on the management of the Repository.

5. The Committee shall:
   (a) Define the data scope for the National Data Repository project;
   (b) Review data standards, quality-control procedures and data security- strategies;
   (c) Facilitate the migration of exploration and production data, materials and information from the Companies to the Repository;
   (d) Establish and operate a world-class Geological and Geophysical Centre;
   (e) Establish in the Repository, a digital platform to support Department of Petroleum Resources operations;
   (f) Develop a business model for a self-funding Repository and approve its budget and expenditure as appropriate; and
   (g) Establish a Virtual Reality Centre.

6. Data from the Repository may be released to the public on payment of the following fees:-
   (a) Data prying (seismic and wells) ............................................. $25,000 per block;
   (b) Data leasing (seismic and wells) ........................................... $25,000 per block:
   (c) Evaluation Reports and studies ............................................ $50,000 per block;
   (d) GIS data and mapping for facilities, including;
      (i) Pipeline and Upstream location ....................................... $50,000 per stand sheet,
      (ii) Refineries, Jetties and Depots ....................................... N500,000 per stand sheet,
      (iii) Lubes blending plants .................................................. N300,000 per stand sheet,
      (iv) LPG Plant ............................................................... N200,000 per stand sheet, and
      (v) Filling Stations ........................................................... N100,000 per stand sheet.

7. (1) All records, reports, data, plant, maps, charts, accounts, and materials and information which are required to be furnished to the Director of Petroleum Resources under the Petroleum Act and Regulations, shall be submitted by the holder of an Oil Prospecting and Oil Mining leases to the Repository in a format specified by the Director of Petroleum Resources.
(2) The submission of the data by the Licensee or Lessee shall be a discharge of its obligation to submit data to the Department of Petroleum Resources under the Petroleum Act and Regulations.

(3) All records, reports, data, plans, maps, charts, account, materials and information which are required to be furnished to the Repository under these Regulations or Petroleum Act shall be supplied at the expense of the licensee or lessee.

(4) No information required by these regulations to be furnished or submitted to the Repository in relation to work done or progress of operations in the relevant area shall be withheld on the grounds that the information is confidential or interpretational.

(5) Any information supplied by the licensee or lessee shall (except as otherwise provided by these Regulations), be treated by all public officers and other authorities entitled to the information as confidential, provided that, no information shall be regarded as confidential, immediately after the expiration of the following periods:—
   (a) Well data ................................................................. 2 years;
   (b) Seismic data ........................................................... 5 years;
   (c) Speculative seismic data ........................................... 10 years; and
   (d) Interpreted data ...................................................... 10 years.

Made at Abuja this ..........day of ....2007

Dr. Edmund Daukoru
Minister of Energy
ASSOCIATED GAS RE-INJECTION
(CONTINUED FLARING OF GAS) REGULATIONS
[S.I. 43 OF 1984]

under sections 3 and 5

Commencement: 1st January, 1985

1. **Conditions for issuance of certificate for continued flaring of gas**
   As from the commencement of these Regulations, the issuance of a certificate by the Minister under section 3 (2) of the Associated Gas Re-injection Act, for the continued flaring of gas in a particular field or fields, shall be subject to any one or more of the following conditions, that is—
   (Cap. A 25)
   (a) where more than seventy-five percent of the produced gas is effectively utilised or conserved;
   (b) where the produced gas contains more than fifteen percent impurities, such as N2, H2S, CO2, etc. which render the gas unsuitable for industrial purposes;
   (c) where an on-going utilisation programme is interrupted by equipment failure: Provided that such failures are not considered too frequent by the Minister and that the period of any one interruption is not more than three months;
   (d) where the ratio of the volume of gas produced per day to the distance of the field from the nearest gas line or possible utilisation point is less than 50,000 SCF/KM: Provided that the Gas-to-Oil ratio of the field is less than 3,500 SCF/bbl, and that it is not technically advisable to re-inject the gas in that field;
   (e) where the Minister, in appropriate cases as he may deem fit, orders the production of oil from a field that does not satisfy any of the conditions specified in these Regulations.

2. **Power to review, etc.**
   The Minister may from time to time, review, amend, alter, add to or delete any provision of these Regulations as he may deem fit.

3. **Short title**
   These Regulations may be cited as the Associated Gas Re-Injection (Continued Flaring of Gas) Regulations.
1. **Ship, etc., not to carry part cargo or dead freight**
   As from the commencement of these Regulations, no ship, tanker or vehicle in which crude oil is carried shall take part cargo or carry dead freight except—
   (a) within the limits of operational practice; or
   (b) when loading the full complement from two or more terminals within Nigeria; or
   (c) with the prior written approval of the Minister or any person so designated by the Minister in writing to grant such approval.

2. **No topping to be made**
   No topping shall be made, demanded or received for or by any ship, tanker, or vehicle in which crude oil is carried within or outside any loading port or terminal in Nigeria.

3. **Verification and certification of crude oil, etc.**
   All declarations regarding the capacity of any ship, tanker or vehicle in which crude oil is carried shall be verified and certified by the appropriate Government authority or agency at the port of loading and no crude oil shall be loaded into any ship, tanker or vehicle other than that designed solely for that purpose.

4. **Prohibition of loading crude oil into ballast tank, etc.**
   No loading shall be made into a ballast tank or any other tank, container or receptacle of a ship or tanker other than those designated, dedicated and designed for the storage and transportation of crude oil.

5. **False declaration**
   Any false declaration regarding the capacity of any ship, tanker or vehicle in which crude oil is carried or in respect of the quality or quantity of oil loaded or the alteration of any document relating to quality, quantity or capacity of any ship, tanker, vehicle or cargo of crude oil shall be regarded as non compliance with the provisions of these Regulations.

6. **Ship not to depart without full documentation**
   No ship, tanker or vehicle in which crude oil is carried shall depart from Nigeria for any reason whatsoever without full documentation in the prescribed manner having been concluded by the appropriate authorities and without specific authorisation by designated officers of the Department of Customs and Excise and any other Government agency having authority in that regard.

7. **No loading, etc. of crude oil in unauthorised location**
   No loading, unloading or trans-shipment of crude oil shall be carried out within Nigeria at any location other than those approved by the Minister for that purpose.

8. **Measures to be taken pending trial**
   In any case where a breach of these Regulations is committed by any person or body (corporate or unincorporate) the Minister or any person authorised by him or under any law, shall, pending the trial of such person or body, do any one or more of the following things, that is to say—
   (a) cause the arrest or seizure of any cargo, ship or vehicle in which crude oil is carried;
   (b) arrest or cause to be arrested all persons involved and hand them over to a law enforcement agent to be dealt with in accordance with the law;
   (c) withdraw or cancel any licence granted by him to any such person or body or direct such action to be taken by an appropriate Government agency;
   (d) enter or direct the entry into any premises where any breach of the Regulations has occurred and take possession of any document, instrument or material used in connection therewith;
   (e) cause an inquiry to be conducted into the affairs of any person or body (corporate or unincorporate) connected with the breach of any of these Regulations;
   (f) order the closure of any premises where such breach occurs;
   (g) generally take such other action as the Minister may consider necessary for the purpose of preventing any further breach of these Regulations.
9. **Penalty for non-compliance**
   (1) Any person or body (corporate or unincorporate) who fails to comply with any of the provisions of these Regulations shall be guilty of an offence and on conviction shall be liable to a fine of ₦100 or a term of imprisonment of six months.

10. **Interpretation**
    In these Regulations, unless the context otherwise requires—

    “appropriate authority” means the Nigeria National Petroleum Corporation, the Nigerian Ports Authority, the Immigration Service, the Department of Customs Service, or any other government agency having authority for clearance of ships before departure from the Nigerian waters.

    “topping” means any further loading of crude oil in any available space on the ship, tanker or vessel after loading the nominated quantity of crude oil at any designated terminal;

11. **Short title**
    These Regulations may be cited as the Crude Oil (Transportation and Shipment) Regulations.
OIL TERMINALS (TERMINAL DUES) REGULATIONS
[L.N. 77 of 1972]

under section 10

Commencement [20th March, 1971]

1. Rate of payment of oil terminal dues
(1) The terminal dues payable for the purposes of section 1(1) of the Oil Terminal Dues Act shall be at the rate of two United States cent per barrel of oil loaded by the person concerned into a ship.

(2) In this regulation, “the person concerned” means any person liable to pay terminal dues under section 1(2) of the Act. [1969 No. 9]

2. Short title
These Regulations may be cited as the Oil Terminals (Terminal Dues) Regulations.
PETROLEUM (DRILLING AND PRODUCTION) REGULATIONS 1969

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F. Form of Drilling Rig Licence
1. Form of applications, etc.

(1) Every application for an oil exploration licence, oil prospecting licence or oil mining lease shall be made to the Minister in writing on the appropriate form as set out in the Schedule to these Regulations.

(2) Every application shall be accompanied by—
   (a) the prescribed fee as set out in Part VI of these Regulations (the fee in question not being refundable in any circumstances);
   (b) ten copies of a map on a scale or scales specified by the Director of Petroleum Resources upon which is delineated in red the boundaries of the area in respect of which the application is made;
   (c) an adequate survey description of the boundaries of that area (at least one boundary corner being tied, in the case of an application for an oil mining lease, to an official survey control beacon, or an existing survey mark itself previously tied to an official survey grid) or, where the area has been blocked out or delineated and described by or on behalf of the Minister, a reference to the particulars of identification used by him or on his behalf;
   (d) evidence of the financial status and technical competence of the applicant;
   (e) details of the work which the applicant is prepared to undertake or a programme for carrying out any minimum working obligations imposed;
   (f) details of the annual expenditure which the applicant is prepared to make on each area applied for;
   (g) the date on which he is prepared to begin operations after the grant of the oil exploration licence, oil prospecting licence or oil mining lease to which the application relates;
   (h) details of a specific scheme for the recruitment and training of Nigerians;
   (i) evidence of the applicant's ability to market any petroleum produced;
   (j) annual reports in respect of the applicant's oil exploration and production activities in the preceding three years; and
   (k) any other information which the Minister may call for by notice in the Federal Gazette or otherwise.

(3) The applicant shall furnish such further evidence relating to the matters mentioned in paragraph (2) of this regulation as the Director of Petroleum Resources may require.

2. Areas

(1) The boundaries of the area applied for—
   (a) shall be straight lines in North to South and East to West directions and, where so required by the Director of Petroleum Resources, shall be coincident with all or part of any existing licence or lease boundaries or international or inter-State boundaries or with grid lines designated by him; or
   (b) where the boundaries of the area have been already delineated by or on behalf of the Minister, shall correspond to those boundaries.

(2) The area applied for shall be a compact unit not exceeding in area—
   (a) in the case of an oil exploration licence, five thousand square miles;
   (b) in the case of an oil prospecting licence, one thousand square miles;
   (c) in the case of an oil mining lease, five hundred square miles.

(3) All oil mining leases deriving from an oil prospecting licence shall be in compact blocks or units; and, where more than one block or unit is so derived, each block or unit shall be the subject of a separate and distinct lease.

(4) Where there is provision for the relinquishment or surrender of part of the relevant area of a licence or lease, the relinquishment or surrender shall be such that the retained part is a compact unit as provided in paragraphs (2) and (3) of this regulation; and the licensee or lessee shall obtain the prior agreement of the Director of Petroleum Resources as to the shape and area of the retained part before an application for the relinquishment or surrender is made to the Minister.

3. Withdrawal of applications

An applicant may withdraw his application by notifying the Minister of his intention in writing, and the Minister shall accept the withdrawal if the prescribed fee is paid:

Provided that the Minister may for good reasons waive the fee.
4. Applications for assignment
An application for the assignment of an oil prospecting licence or oil mining lease (or of an interest in the same) shall be made to the Minister in writing and accompanied by the prescribed fee; and the applicant shall furnish in respect of the assignee all such information as is required to be furnished in the case of an applicant for a new licence or lease.

4B. Applications for assignment or takeover
Application for the assignment or takeover of an oil prospecting licence or Oil Mining lease or of an interest in the same) shall be made to the Minister in writing and accompanied by the prescribed fees at the discretion of the Minister; and the applicant shall furnish in respect of the assignment, or takeover all such information as is required to be furnished in the case of an applicant for a new licence or lease.

5. Publication
All grants and renewals of oil prospecting licences and oil mining leases and all surrenders, determinations or assignments thereof shall be published in the Federal Gazette with the name of the licensee or lessee and the situation of the relevant area.

6. Samples and Specimens
(1) The holder of an oil exploration licence may remove for examination and analysis samples and specimens of rock and petroleum found by him in the course of his operations.

(2) The Director of Petroleum Resources shall be given particulars of all such samples and specimens and provided, if he so requests, with representative samples and specimens not exceeding one half of the samples and specimens removed.

7. Samples and specimens: control of export
The holder of an oil exploration licence, oil prospecting licence or oil mining lease may not export samples or specimens abroad except with the written permission of the Director of Petroleum Resources and subject to such conditions as he may prescribe.

8. Registration
If the law of the State in which the relevant area is situated provides for an oil exploration licence, oil prospecting licence or oil mining lease to be registrable, the licensee or lessee shall register the licence or lessee accordingly at his own expense and supply one copy of the registered licence or lease to the Director of Petroleum Resources.

9. Appointment of Manager
The holder of an oil exploration licence, oil prospecting licence or oil mining lease shall—
(a) appoint a manager resident in Nigeria to supervise the operations under the licence or lease; and

(b) notify the name and address of the manager (and changes therein) to the Director of Petroleum Resources, and any notice required to be served on the licensee or lessee shall be sufficiently served if delivered or posted to the manager at the address notified.

Part II
Oil Exploration Licences

10. Form
Oil exploration licences shall be in appropriate form in the Schedule to these Regulations.

11. Powers
Subject to the rights of the owners and occupiers of the relevant area, the licensee of an oil exploration licence may, with the approval of the Director of Petroleum Resources, bring and erect upon the relevant area temporary structures, machinery and other things necessary for his operations, and may dismantle and remove the same.

12. Commencement of exploration
(1) As soon as possible (but not more than three months) after the grant of an oil exploration licence, the licensee shall commence to examine the relevant area by geological and geophysical methods, and shall continue the examination during the substance of the licence.

(2) Work under paragraph (1) of this regulation shall be supervised continuously by a qualified petroleum geologist and shall be carried out to the satisfaction of the Director of Petroleum Resources.
13. **Reports**

1. The licensee of an oil exploration licence shall report without delay to the Director of Petroleum the discovery of any hydrocarbons or other economic minerals in the relevant area.

2. In addition to reports and information required to be submitted under Part V of these Regulations, the licensee of an oil exploration licence shall within two months of the expiration of the licence forward to the Director of Petroleum Resources, a report in triplicate on the work done and the conclusions reached on the relevant area, the report in question being accompanied by all necessary data, maps, plans and sections.

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**Part III**

**Oil Prospecting Licences and Oil Mining Leases**

**Form, rights and powers**

14. **Form**

Licences and leases shall be in the appropriate form in the Schedule to these Regulations.

15. **Rights and powers**

1. The rights and powers conferred on licensees and lessees under the Act shall include the right, subject to all the applicable laws and the approval in writing of the Director of Petroleum Resources and of other appropriate government agencies and to such conditions as they may impose—
   
   (a) to cut down and clear timber and undergrowth;

   (b) to make roads;

   (c) to appropriate and use water found in the relevant area and to collect and impound the same, but so that in the exercise of this right, the licensee or lessee shall not deprive any lands, villages, houses or watering places for cattle of a reasonable supply thereof or interfere with any rights of water enjoyed by any person under the Land Use Act or any other enactment;

   (d) to construct, bring, maintain, alter, operate, dismantle or remove—
      
      (i) industrial buildings and installations, including drilling platforms engines, power plants, flowlines, storage tanks, loading terminals, harbours, jetties, piers, moles, landing places and derricks,
      (ii) means of communication, including telephone lines and wireless stations,
      (iii) facilities for shipping and aircraft,
      (iv) living accommodation and amenities for the employees and workmen of the licensee or lessee, and
      (v) other buildings, installations, works, chattels and effects;

   (e) to dredge;

   (f) to search for, dig and get free of charge gravel, sand, clay and stone not subject to any licence or lease within unoccupied State land, on condition that—
      
      (i) any such gravel, sand, clay or stone shall not be sold, and
      (ii) upon termination or prior cessation or completion of work in the relevant area, all excavations shall be filled in or levelled out and left by the licensee or lessee as far as may be reasonably practicable and to the satisfaction of the Director of Petroleum Resources in their original condition and, if so required by the Director of Petroleum Resources, fenced or otherwise safeguarded.

2. The licensee or lessee may exercise any of his rights or powers through agents or independent contractors, but shall be responsible for all the actions of the agents and contractors in question.

16. **Reservations and exclusions**

1. The Minister or any person authorised by him shall have the right to enter the relevant area to search for, dig, work and get substance other than petroleum, and generally for any purposes other than those for which a licence or lease has been granted.

2. The Government of a State shall retain the power, in respect of such parts of the relevant area as are State land situated within the State, to exercise all rights conferred by law upon him.

3. The powers conferred by this regulation shall not be exercised in such a way as to hinder or interfere with the rights and powers of the licensee or lessee, and no exercise of any right under paragraph (1) of this regulation shall be permitted or effective if and so far as the exercise would affect or abrogate any of the rights of the licensee or lessee conferred by section 112 of the Minerals and Mining Act.
Restrictions

17. Entry on land
(1) The licensee or lessee is not authorised to enter upon or occupy, or to exercise any of the rights and powers conferred by his licence or lease in relation to—
   (a) any area held to be sacred (the question whether any area is held to be sacred being decided, if necessary, by the State authority, whose decision shall be final); or
   (b) any of the following parts of the relevant area unless and until permission in writing to do so has been obtained by the licensee or lessee from the Minister (which permission shall be subject to such conditions as the Minister may see fit to impose), that is to say—
      (i) any part set apart for or used or appropriated or dedicated to public purposes,
      (ii) any part occupied for the purposes of the government of the Federation or a State,
      (iii) any part situate within a township, town, village, market, burial ground or cemetery,
      (iv) any part which is the site of or is within fifty yards of any building, installation, reservoir, dam, public road or tramway or which is appropriated for or situate within fifty yards of any railway,
      (v) any part actually under cultivation; or
   (c) any part consisting of private land (other than private land coming within sub-paragraph (b) of this paragraph) unless and until permission in writing to do so has been obtained by the licensee or lessee from the Minister, who may grant permission if the licensee or lessee has—
      (i) given previous notice in writing to the Minister specifying by name or other sufficient designation and by quantity the land proposed to be occupied and the purpose for which the land is required, and
      (ii) paid or tendered to the persons in lawful occupation of and to the owner or owners of the land fair and adequate compensation therefore.

(2) In the event of any dispute under sub-paragraph (c) (ii) of paragraph (1) of this regulation as to who is in lawful occupation or the owner of any land, or as to the amount of any compensation payable, the licensee or lessee shall deposit with the State authority such sum as shall appear to that authority to be reasonable satisfaction in full in part of whatever compensation the licensee or lessee may be found liable to pay, without prejudice to the right of the licensee or lessee to recover any amount paid in excess of the said compensation.

(3) In this regulation “private land” means any land in respect of which a person is entitled to exercise a right of occupancy under the Land Use Act.

[Cap. L5]

18. Compliance with planning laws
The licensee or lessee shall comply with any law relating to town or country planning or regulating the construction, alteration, repair or demolition of buildings.

19. Roads
The licensee or lessee shall not hinder or prevent any person from having access to or using at his own risk any road constructed in accordance with these regulations:

Provided that—
(a) where any person uses such a road in such a manner as to do appreciable damaged thereto or to increase substantially the cost of upkeep thereof, the licensee or lessee may call upon that person to contribute to the cost of upkeep of the road, and if that person fails to contribute such an amount as the licensee or lessee may reasonably require towards the cost of upkeep of the road, the licensee or lessee may with the consent of the Minister prevent that person from having access to or using the road;

(b) where any person uses such a road in such a manner as materially to interfere with the free use and enjoyment of the road by the licensee or lessee, the licensee or lessee may call upon that person to limit his use of the road so as to end the interference, and if that person does not so limit his use of the road, the licensee or lessee may with the consent of the Minister prevent that person from having access to or using the road.

20. Cultivation
The lessee shall not except with the consent of the Minister cultivate or use the relevant area in any manner save for the purpose of his licence or lease and the rights thereby granted.

21. Protected and productive trees
(1) The licensee or lease shall not cut or take any protected tree except with the consent of the State authority and on payment of the appropriate fees and royalties.
(2) If the licensee or lessee cuts down or takes any other productive tree, he shall pay fair and adequate compensation to the owner thereof:

Provided that in the event of any dispute or uncertainty as to the owner of any productive tree, or as to the amount of compensation payable, the licensee or lessee shall deposit with the State authority such sum as shall appear to that authority to be reasonable satisfaction in full or in part of whatever compensation the licensee or lessee may be found liable to pay to the owner, without prejudice to the right of the licensee or lessee to recover any amount paid in excess of the said compensation.

(3) In this regulation—
“other productive tree” means a tree having commercial value which is not a protected tree;
“protected tree” means a tree protected by law, and includes all trees in a forest reserve.

22. Venerated objects
Except with the permission of the State authority, given on such terms as he may direct, a licensee or lessee shall not injure or destroy any thing which is an object of veneration, and if any question arises as to whether any thing is an object of veneration, that question shall be decided by that authority, whose decision shall be final.

23. Fishing rights
If the licensee or lessee exercises the rights conferred by his licence or lease in such a manner as unreasonably to interfere with the exercise of any fishing rights, he shall pay adequate compensation therefore to any person injured by the exercise of those first-mentioned rights.

24. Safety of navigation
Any works or installations erected by the licensee or lessee for off-shore operations shall be of such a nature and shall be so constructed, placed, marked, buoyed, equipped and maintained as to leave at all times and in any conditions safe and convenient channels for shipping in the relevant area; and, without prejudice to the generality of the foregoing, he shall install such audible or visual navigational aids as may be approved or required by the Federal Government or any other authority having jurisdiction and shall maintain the same in a manner satisfactory to the said Government or authority.

25. Prevention of pollution
The licensee or lessee shall adopt all practicable precautions including the provision of up-to-date equipment approved by the Director of Petroleum Resources, to prevent the pollution of inland waters, rivers, water courses, the territorial waters of Nigeria or the high seas by oil, mud or other fluids or substances which might contaminate the water, banks or shore line or which might cause harm or destruction to fresh water or marine life, and where any such pollution occurs or has occurred, shall take prompt steps to control and, if possible, end it.

Part IV
Obligations of Lessees and Licensees

Recruitment and training of Nigerians

26. Training programmes; approval, etc.
(1) The licensee of an oil prospecting licence shall within twelve months of the grant of his licence, and the lessee of an oil mining lease shall on the grant of his lease, submit for the Minister’s approval, a detailed programme for the recruitment and training of Nigerians.

(2) The programme shall provide for the training of Nigerians in all phases of petroleum operations whether the phases are handled directly by the lessee or through agents and contractors.

27. Scholarship schemes; approval
Any scholarship schemes prepared, and any scholarships proposed to be awarded, by the licensee or lessee (whether or not related to the operations of the licensee or lessee or to the oil industry generally) shall be submitted for the approval of the Minister.

28. Variations
Once a programme under regulation 26 of these Regulations or a scholarship scheme under regulation 27 of these Regulations has been approved by the Minister, it may not be varied without his permission.

29. Reports
A report on the execution of the programme mentioned in regulation 26 of these Regulations and the progress of Nigerianisation shall be submitted by the licensee or lessee at or about the end of June and December in every calendar year.
30. Commencement of exploration
Every licensee or lessee—
(a) shall explore the relevant area, using geological, geophysical and any other acceptable methods of examination for the purpose of arriving at the petroleum-producing prospect, until the area has been adequately explored for that purpose, giving in this respect due regard to the reasonable wishes of the Minister; and
(b) shall, within six months of the date of the grant of the licence or lease, commence (in so far as he has not already begun to do so) seismic investigations which shall continue until the relevant area has been fully investigated.

31. Permit to conduct Seismic data survey
(1) No person shall carry out seismic data survey in any concession area unless the person has been issued a permit by the Director of Petroleum Resources.

(2) The permit shall be obtained in respect of each concession.

(3) An application for a permit shall be made in writing to the Director of Petroleum Resources at least one, month prior to the commencement of the survey and accompanied by a fee of ₦5,000.00.

(4) An application under paragraph (3) of this regulation shall state among other things—
(a) the objectives of the proposed data acquisition and the location of the Oil prospecting licence or oil mining lease area,
(b) the “density and quality of previous vintages if any, on the, said areas of the concession;
(c) the justification for the magnitude of subsurface Coverage being applied for;
(d) the terrain and duration of the survey;
(e) the name of the geophysical party and, location;
(f) the base map of the area;
(g) the equipment type and specification;
(h) the Copy of similar letter of intent issued by Hydrographer of the Nigerian Navy in the case of Marine Operation;
   (i) the estimated cost per kilometre;
   (ii) any other relevant information.

32. Commencement of drilling
Not later than eighteen months from the date of the grant of an oil prospecting licence, the licensee shall begin drilling operations with a modern oil well drilling outfit and shall drill on the average one well each year (commencing from the second year) in the relevant area to penetrate through all the prospective zones:

Provided that an aggregate of three wells drilled through all the prospective zones in the relevant area shall be sufficient to satisfy the minimum drilling obligations for application for conversion of the licence to a lease.

33. Boreholes and wells
(1) No borehole or well shall be commenced or re-entered after work has been stopped for six months without the written approval of the Director of Petroleum Resources and the payment of a fee of ₦5,000:

Provided however that any approval granted under this regulation shall be validated if work does not commence within six months of the grant of the approval on the payment of a fee of ₦2,500.

(2) As soon as the site of any borehole or well has been decided, the licensee or lessee shall notify the Director of Petroleum Resources and the ports authority (where appropriate) in writing of the proposed site in accordance with the following provisions—
(a) in the case of an exploration hole or any hole penetrating any previously undrilled structure, strata or pool, the notification to the Director of Petroleum Resources shall contain—
   (i) the name or proposed name of the field followed by the figure 1;
(ii) the preliminary co-ordinates and elevation of the proposed location;
(iii) a seismic map or plan of the structure or structures to be investigated and the estimated date of spudding (which shall not be less than twenty-one days from the date of the notification), and
(iv) all such other information, including information as to the drilling, casing, testing, cementation and completion programmes proposed by the licensee or lessee, as the Director of Petroleum Resources may by notice in writing require from time to time;

(b) in the case of a development or appraisal hole or a hole penetrating only previously drilled structures, strata or pools, the seismic maps or plans of which have already been submitted to the Director of Petroleum Resources, the notification shall contain the approval name of the field and its number which shall represent the chronological sequence in which the well is to be drilled relative to the exploration well (which shall always bear the figure (1) together with—
(i) its preliminary co-ordinates and elevation,
(ii) its estimated date of spudding (which shall not be less than twenty-one days from the date of the notification), and
(iii) all such other information (including information as to the drilling, casing, cementation, testing and completion programmes) as the Director of Petroleum Resources may by notice in writing require from time to time.

(3) Where the Director of Petroleum Resources is satisfied with the programme, he shall upon a fee of ₦50,000 being paid by the licensee or lessee give his written approval to the drilling of the well together with such observation and comments as he may wish to make.

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(4) If he is not satisfied with the programme, the Director of Petroleum Resources may withhold his permission, but he shall convey to the licensee or lessee the reasons for his refusal.

34. Wells and fields
(1) Every well shall be identified by a unique designation for which the licensee or lessee shall obtain the prior approval in writing of the Director of Petroleum Resources.

(2) The designation of a well shall in general consist of the field in which the well is to be drilled, followed by the serial number which indicates the chronological order in the drilling sequence for the field.

(3) All fields shall bear names in a Nigerian vernacular language which shall in general refer to any geographical, topographical or other general features in the vicinity of the field, and may be chosen from the names of the flora and fauna or any parts thereof of the country, or from any local numerals:

Provided that, as an alternative to the foregoing provision of this paragraph, fields may be designated by the short title by which the licensee or lessee is commonly identified followed by an alphabetical representation consisting of not more than two letters.

(4) No field may be named after an individual without the specific permission in writing of the Minister, and in any case no field shall be named after a living person or after a non-Nigerian.

(5) The designation of a well may not be altered simply because a part of the hole was deviated or whipstocked or because the well was re-drilled to a lower target:

Provided that—

(a) where an original hole was plugged back and abandoned but another hole was drilled directionally to another target area, the new directional hole shall have a unique number if the new bottom is at least one hundred yards from the bottom of the original hole;

(b) other prefixes, suffixes or any other additional letters or characters may with the prior approval of the Director of Petroleum Resources (who shall first be satisfied of the necessity for the addition) be appended to the designation of any well.

(6) The licensee or lessee shall not change the designation, status or classification of a well or field without the approval in writing of the Director of Petroleum Resources.

(7) In this regulation “field” includes an existing field and a proposed field.

35. Drilling Rigs
(1) No person shall operate a drilling rig without a valid licence granted by the Minister or any other public officer in the Ministry authorised in that behalf, in writing by the Minister.

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(2) The following provisions shall apply in respect of a licence granted under this regulation—
(a) the licence shall expire on the 31st December next following the date on which it was granted, but may be renewed upon application in writing made at least two months before the expiry;
(b) the licence may be withdrawn or suspended for a stated period if the rig is operated in contravention of any enactment, or if the owners or operators thereof do not comply with instructions issued by the Director of Petroleum Resources;
(c) the licence shall not be transferable;
(d) a copy of the current licence shall be displayed on the rig and the original shall be available for inspection at all times on the rig.
(3) Applications for a licence to be granted under this regulation, and any licences so granted, shall be in the appropriate form in the Schedule to these Regulations.

Field Development

36. Abandonment, etc.
(1) No borehole or existing well shall be re-drilled, plugged or abandoned, and no cemented casing or other permanent form of casing shall be withdrawn from any borehole or existing well which it is proposed to abandon, without the written permission of the Director or Petroleum Resources.

(2) Every borehole or existing well which the licensee or lessee intends to abandon shall, unless the Director of Petroleum Resources otherwise permits in writing, be security plugged by the licensee or lessee so as to prevent ingress and egress of water into and from any portion or portions of the strata bored through and shall be dealt with in strict accordance with an abandonment programme approved or agreed to by the Director of Petroleum Resources.

37. Maintenance of apparatus and conduct of operations
The licensee or lessee shall maintain all apparatus and appliances in use in his operations, and all boreholes and wells capable of producing petroleum, in good repair and condition, and shall carry out all his operations in a proper and workmanlike manner in accordance with these and other relevant regulations and methods and practices accepted by the Director of Petroleum Resources as good oilfield practice; and without prejudice to the generality of the foregoing he shall, in accordance with those practices, take all steps practicable—
(a) to control the flow and to prevent the escape or avoidable waste of petroleum discovered in or obtained from the relevant area;
(b) to prevent damage to adjoining petroleum-bearing strata;
(c) except for the purpose of secondary recovery as authorised by the Director of Petroleum Resources, to prevent the entrance of water through boreholes and wells to petroleum-bearing strata;
(d) to prevent the escape of petroleum into any water, well, spring, stream, river, lake, reservoir, estuary or harbour; and
(e) to cause as little damage as possible to the surface of the relevant area and to the trees, crops, buildings, structures and other property thereon.

38. Field development programme
All fields, structures, reservoirs and other oil traps shall be developed and produced in strict accordance with a field development programme, which shall be submitted for the prior approval of the Director of Petroleum Resources and shall give details of the estimated size of the pool, the known physical parameters of the pools, reservoirs or structures at the time of drawing up the programme, the intended drilling pattern (if any), the production or drainage pattern, and the anticipated drive mechanism:
Provided that no such field development programmes shall be required to be submitted during the initial phase when the extent of a field structure, reservoir or pool is being appraised and wells are being drilled—
(a) not closer than eight hundred and eighty yards, where the wells are likely to produce from the same pool; or
(b) not closer than four hundred and forty yards, where the wells will not at any one time produce from the same pool except in conformity with the subsequently approved field development programme.

38. Production of crude oil and natural gas
The licensee or lessee shall use approved methods and practices acceptable to the Director of Petroleum Resources for the production of crude oil or natural gas from any pools or reservoir, and shall in particular take all necessary steps—
(a) to obtain the initial physical characteristics of the reservoir fluids and reservoir parameters (such as temperatures, pressures, gas oil ratios, bubble point pressures, porosities, viscosities, relative permeabilities in relation to fluid saturations, fluid gravities and the like), the detailed data and results and analyses of which shall be submitted to the Director of Petroleum Resources prior to, or as soon as possible after, the
commencement of production from any such pool or reservoir;

(b) to obtain periodical information on the data required to be obtained by paragraph (a) of this regulation, at intervals approved by the Director of Petroleum Resources;

(c) to cause every pool in each well to produce within the limits of its maximum efficient potential or rate as may be determined from time to time by the licensee or lessee, and to submit the results of his determinations to the Directory of Petroleum Resources half yearly.

40. Confinement of petroleum
The licensee or lessee shall use approved methods and practices acceptable to the Director of Petroleum Resources for confining the petroleum obtained from the relevant area in tanks, gasholders, pipes, pipelines or other receptacles constructed for that purpose; and, except as a temporary measure (for which the prior consent of the Director of Petroleum Resources has been obtained)—
(a) during an emergency; or
(b) for test purposes in a remote area, no petroleum shall be placed or kept in an earthen reservoir.

41. Drainage of waste oil, etc.
The licensee or lessee shall drain all waste oil, brine and sludge or refuse from all storage vessels, boreholes and wells into proper receptacles constructed in compliance with safety regulations made under the Act or any other applicable regulations, and shall dispose thereof in a manner approved by the Director of Petroleum Resources or as provided by any other applicable regulations.

42. Pressure decline; study and report
(1) Prior to or upon the attainment of a 10 per cent decline in the initial reservoir pressure of a pool or reservoir (determined by the consideration of the average current reservoir pressure weighted as appropriate), the licensee or determine the economic practicability of instituting a secondary recovery or pressure maintenance project and its recommended timing.

(2) A full report of the result of the study shall be submitted to the Director of Petroleum Resources as soon as possible (and in any case not more than six months) after the attainment of the pressure decline mentioned in paragraph (1) of this regulation.

43. Utilisation of natural gas; feasibility study
Not later than five years after the commencement of production from the relevant area, the licensee or lessee shall submit to the Minister, any feasibility study, programme or proposals that he may have for the utilisation of any natural gas, whether associated with oil or not, which has been discovered in the relevant area.

44. Power to give certain directions
The Direction of Petroleum Resources may give such directions as may in his opinion be necessary from time to time, to ensure the proper exploitation of petroleum and to encourage good conservation practices in any licensed or leased lands; and the licensee or lessee shall comply with any such directions which affect him.

45. Compliance with safety regulations and instructions
The licensee or lessee shall comply with the all existing safety regulations and all such instructions as may, from time to time, be given in writing by the Director of Petroleum Resources for securing the health and safety of persons engaged on or in connection with operations under his licence or lease.

46. Termination
(1) The licensee or lessee shall within two months (or such further period as the Minister may approve) after the termination of his licence or lease—
(a) deliver up to the Minister, in good order, repair and condition and fit for further working, all productive boreholes or wells (unless the Director of Petroleum Resources requires the licensee or lessee in writing to plug them as he may direct or as provided by these Regulations) together with all casings and other appurtenances to the boreholes and wells which are below the Christmas tree and cannot be moved without causing injury to the said bore holes or wells;

(b) fill up fence all holes (other than bore holes and wells) and excavations that he has made in the relevant area to such an extent as the Director of Petroleum Resources may reasonably require; and

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(c) to the like extent take reasonable steps to restore as far as possible to their original condition the surface of the relevant area and all buildings and structures thereon which have been damaged in the course of his operations.
(2) Within two months (or such further period as the Director of Petroleum Resources may approve) after the termination of his licence or lease, the licensee or lessee shall, if so required by the Director of Petroleum Resources, plug every borehole which the Director of Petroleum Resources may indicate in the manner specified by the Director of Petroleum Resources.

(3) On the termination of his licence or lease the licensee shall, subject to the rights of the owners of the surface or other persons having a legal interest in the relevant area or any part of it, remove all buildings, installations, works, chattels and effects erected or brought by the licensee or lessee upon the relevant area for or in connection with his operations:

Provided that, subject as aforesaid, the Minister may specify any such buildings, installations, works, chattels or effects, and shall then be entitled to take the same at a price bearing a reasonable relationship to the written down value thereof.

(4) Where a licence or lease is surrendered as regards a part of the relevant area, it shall be deemed for the purposes of this regulation to have terminated as regards that part of the relevant area.

47. Boundary marks

(1) The licensee or lessee, if so required by the Director of Petroleum Resources, at his own expense forthwith erect and at all times maintain and keep in repair substantial boundary marks of brick, stone or concrete not less than one foot high at every angle or corner of the boundary line of the relevant area.

(2) The boundary marks shall be related by survey to at least two readily identifiable points in such a manner that the boundaries of the relevant area can be accurately traced on the ground.

(3) The licensee or lessee shall ensure that the relevant area as demarcated on the ground conforms to the relevant area as delineated on the plan attached to his licence or lease.

48. Joint development schemes

(1) If at any time during the term of a licence or lease—

(a) the Minister, after consultation with the licensee or lessee (referred to in this regulation as “the grantee”), in satisfied that the relevant area or any part thereof forms part of a single geological petroleum reservoir (referred to in this regulation as “the oilfield”) in respect of other parts of which any other licence or lease is in force, and that the oilfield is susceptible of being developed as a unit in accordance with good oilfield practice; and

(b) the Minister considers that it is in the interests of Nigeria, the grantee and the licensees or lessees of any other part of the oilfield (those licensees or lessees referred to in this regulation as “the other parties”) in order to secure the maximum ultimate recovery of petroleum that the oilfield should be worked and developed as a unit in co-operation by all those who hold a lease or licence over any part thereof, paragraphs (2), (3) and (4) of this regulation shall apply.

(2) The grantee shall, upon being so required by the Minister by a notice in writing specifying the other parties, co-operate with the other parties in the preparation of a scheme (referred to in this regulation as “the development scheme”) for the working and development of the oilfield as a unit by the grantee and the other parties in co-operation, and shall jointly with the other parties submit the development scheme for the approval of the Minister.

(3) The said notice shall contain a description, by reference, to a map, of the area in respect of which the Minister requires the development scheme to be submitted for his approval, and shall state the period within which the development scheme is required to be so submitted.

(4) If the development scheme is not submitted to the Minister within the period limited in that behalf by the said notice, or if the development scheme on being submitted in pursuance of paragraph (3) of this regulation is not approved by the Minister, the Minister shall himself prepare the development scheme in a manner which in his opinion is fair and equitable to the grantee and the other parties.

(5) When the development scheme has been—

(a) submitted under paragraph (3) of this regulation and duly approved; or

(b) prepared by the Minister under paragraph (4) of this regulation, the grantee and the other parties shall perform and observe all the terms and conditions thereof.

Part V
Reports, Accounts and Records

49. Records of boreholes and wells
The licensee or lessee shall keep a record of all boreholes and wells in a form from time to approved by the Director of Petroleum Resources, and the records shall contain particulars in respect of each borehole or well, as
the case may be, of—
(a) the strata and subsoil through which the borehole or well was drilled and the final depth;
(b) the elevation of the land or depth of the sea where the bore hole was drilled;
(c) the casing inserted in the bore hole or well and any alterations thereto;
(d) any petroleum, water, mineral deposits or mine workings encountered;
(e) the results of any analysis, by or on behalf of the licensee or lessee, of any such petroleum, water, mineral deposits or mine workings, or of any other data required to be obtained by or under this regulation;
(f) logs of all types taken in the well (in every case including a minimum of one resistivity log suite and porosity log suite).
(g) results of all borehole surveys and tests (including production tests and pressure tests taken or required to be taken on the well); and
(h) such other matters as the Director of Petroleum Resources may from time to time require.

50. Discovery reports
The licensee or lessee shall forthwith report to the Director of Petroleum Resources, the discovery of petroleum or petroleum-bearing strata.

51. Samples
(1) The licensee or lessee shall correctly label and preserve for reference for a period of two years—
(a) any characteristic samples which he takes, or is required by the Director of Petroleum Resources to take, of the strata or water encountered in any borehole or well; and
(b) samples of petroleum or other fluids found in the relevant area.
(2) The Director of Petroleum Resources and the Director of Geological Survey and their representatives shall have access to the samples at all times, and shall be entitled to require that representative specimens not exceeding one-half of any sample be delivered to them and to retain any specimen so delivered.

52. Measurement and weighing of crude oil and natural gas
(1) The licensee or lessee shall, with volume and gravity correction to sixty degrees Fahrenheit and by a method or methods approved by the Director of Petroleum Resources in writing, measure or weigh—
(a) all crude oil won and saved and casinghead petroleum spirit recovered from the relevant area; and
(b) all natural gas sold.
(2) The Director of Petroleum Resources or an officer authorised by him shall have the right to be present whenever any such measurement or weighing takes place.
(3) The Director of Petroleum Resources or any officer authorised by him shall at all times be present when an equipment or appliance for measuring or weighing crude oil or gas is being calibrated, re-calibrated, tested, compared, measured or weighed against a standard approved by the Director of Petroleum Resources; and any such calibration shall be in accordance with accepted methods and procedures previously agreed to by the Director of Petroleum Resources.
(4) If any measuring or weighing appliance is at any time found to be false or unjust or inaccurate to the extent of more than 1 per cent—
(a) the appliance shall be deemed to have existed in that condition during the period of three months prior to the discovery unless the licensee or lessee can prove to the reasonably satisfaction of the Director of Petroleum Resources that such an error could not have possibly occurred over that period or the period that has elapsed since the last occasion upon which the appliance was examined or tested, whichever is less; and
(b) the royalties payable in respect of the period during which the appliance is deemed to have so existed shall be adjusted accordingly.
(5) The licensee or lessee shall not repair, maintain, or make any alterations in the measuring or weighing equipment or appliances or in the method or methods of measurement or weighing approved by the Director of Petroleum Resources or his representative; and in every case any such repairs, maintenance or alterations shall be carried out in the presence of the Director of Petroleum Resources or his representative.
(6) The Director of Petroleum Resources or his representative shall, have the right to specify the frequency at which all measuring and weighing instruments shall be calibrated or tested, and notwithstanding any such specification, may test or demonstrate the accuracy of any appliance or equipment at any time, with or without previous notice to the licensee or lessee.

53. Accounts and particulars
The licensee or lessee shall in respect of the relevant area, in a form from time to time approved by the Director
of Petroleum Resources keep full and accurate accounts of—
(a) the quantity of crude oil and casinghead spirit won and saved or recovered therefrom;
(b) the method and result of physical tests made on crude oil;
(c) the quantity of crude oil and casinghead spirit sold locally or exported and the particulars of the sale and export;
(d) the quantity of crude oil otherwise disposed of and the manner of its disposal;
(e) the quantity of natural gas sold and the price at which it has been sold;
(f) the quantity of crude oil and casinghead spirit used for drilling or pumping to storage or re-injected to a formation;
(g) the quantity of natural gas used for drilling, for production or as fuel, or re-injected into a formation; and
(h) such further particulars and statistics relating to the operations as the Director of Petroleum Resources may from time to time require, and shall within one month after the last day of each quarter deliver to the Director of Petroleum Resources an abstract in a form from time to time approved by the Director of Petroleum Resources of the accounts for the quarter ended on that last day, together with a statement in the like form of all royalties payable in respect of the said quarter.

54. Progress reports
(1) The licensee or lessee shall furnish within twenty-one days after the end of each month to the Director of Petroleum Resources and Director of Geological Survey, in a form from time to time approved by the Director of Petroleum Resources, a report of the progress of his operations containing particulars of the contents of the record required to be kept under these Regulations, and in addition a statement of the areas in which the licensee or lessee has carried out any geological or geophysical work and an account of the work in question.

(2) The licensee or lessee shall within one month after the end of each quarter furnish to the Director of Petroleum Resources and the Director of Geological Survey a report in a form from time to time approved by the Director of Petroleum Resources of the operations conducted in the relevant area during each quarter, and a forecast of activities in the ensuing quarter, together with a plan upon a scale approved by the Director of Petroleum Resources showing the situation of all boreholes or wells.

(3) The licensee or lessee shall within two months of the end of each calendar year, or any such extended time as the Director of Petroleum Resources may allow, furnish a report containing such information regarding the progress of work in the relevant area in that year as the Director of Petroleum Resources may from time to time specify.

55. Records etc., miscellaneous provisions
(1) The licensee or lessee shall keep accurate geological and subsurface plans, maps, charts, sections and other appropriate geological records (including an estimate, revised to include information obtained up to the end of each calendar year, of the probable reserves and the recoverable amount of petroleum reasonably believed to be present as at the date of estimation or revision in the relevant area), and an extract therefrom or copy thereof shall from part of the annual report required to be furnished by regulation 53(3) of these Regulations in so far as the information to which it relates has not already been furnished.

(2) The information required to be included in the annual report by paragraph (1) of this regulation may be submitted as a separate volume of the annual report.

(3) The licensee or lessee shall furnish to the Director of Geological Survey such other maps, plans and information as to the progress of operations in the relevant area as they may from time to time require, including reports on geological and geophysical surveys carried out in the relevant area.

(4) The licensee or lessee shall submit to the Director of Petroleum Resources copies of every log or borehole survey carried out in any well or borehole as soon as practicable and in any case not more than one month (or such further period as the Director of Petroleum Resources may allow), after running the log or carrying out the survey.

[L.N. 26 of 1973]

(5) The licensee or lessee shall submit to the Director of Petroleum Resources all seismograms and copies of all other geophysical records obtained on the relevant area:

Provided that—
(a) the Director of Petroleum Resources may direct the licensee or lessee to keep the records in his custody; and
(b) any such records so kept shall be made available to the Director of Petroleum Resources on demand.

(6) The results of all seismic surveys, including the relevant seismic map, shall be submitted to the Director of Petroleum Resources.

(7) The licensee or lessee shall submit to the Director of Federal Surveys the negatives of any aerial photographs
taken by the licensee or lessee in the course of his operations; and the said Director shall be entitled to retain
the negatives and to make use as he thinks fit of any topographical information obtained from them.

(8) Negatives surrendered to the Director of Federal Survey under paragraph (7) of this regulation by the
licensee or lessee shall, at all reasonable times and on notice duly given to the Director he made available for
inspection by the licensee or lessee at the office of the Director.

(9) The licensee or lessee shall within three months of the termination of his licence or lease render a report to
the Director of Geological Surveys and Director of Petroleum Resources—
(a) giving an account of the geology of the relevant area;
(b) including an account of the stratigraphic and structural conditions, together with geological, structural
and other subsurface maps, plans and sections on suitably scaled maps and charts; and
(c) including a summary of all immovable items, equipment, appliances, structures and the like in the relevant
area.

(10) No information required by these Regulations to be furnished in relation to work done or progress of
operations in the relevant area shall be withheld on the grounds that the information is confidential or
interpretational.

55. Power to enter relevant area for examination and checking
Any person or persons authorised by the Director of Petroleum Resources shall be entitled at all reasonable times
to enter into and upon any part of the relevant area (or any other location, premises, structure or business place
occupied by the licensee or lessee for the purpose of carrying out or facilitating the carrying out of his operations
in the relevant area)—
(a) to examine or check anything which the licensee or lessee is authorised by the Act and these Regulations to
perform, install, construct or take possession of; or
(b) to inspect and make abstracts or copies of any logs, records, maps, accounts or other document which the
licensee or lessee is required to make or keep in accordance with the Act and these Regulations.

57. Records, etc., to be supplied at expense of licensee or lessee
All records, reports, plans, maps, charts, accounts and information which are required to be furnished under the
Act or these Regulations shall be supplied at the expense of the licensee or lessee.

58. Information to be confidential
Any information supplied by the licensee or lessee shall (except as otherwise provided by these Regulations) be
treated by all public officers and other authorities entitled to the information as confidential:
Provided that the Minister and the Director of Petroleum Resources shall be entitled at any time to make use
of any such information for the purpose of preparing or causing to be prepared aggregated returns and general
reports on the extent of oil operations in Nigeria and for the purposes of any arbitration or litigation between the
Minister and the licensee or lessee.

Part VI
FEES, RENTS AND ROYALTIES

59. Fees
The following fees shall be payable—
(a) On an application for oil prospecting licence
US $10,000.00
(b) For a processing fee
US $10,000.00
(c) On an application for an oil mining lease
US $500,000.00
(d) On an application for a renewal of an oil mining lease
US $1,000,000.00
(e) On an application to withdraw any of the applications
specified in paragraphs (a), (b), (c), and (d) of this regulation
₦20,000.00
(f) On an application to assign or sublet on contract an oil
prospecting licence or an oil mining lease
₦500,000.00
(g) On application to terminate or effect a partial surrender of
an oil prospecting licence or an oil mining lease
₦50,000.00
(h) On an application for a licence to operate a drilling rig
₦20,000.00
(i) For a licence to operate a drilling rig
₦100,000.00
(j) For permit to export samples for analysis ₦10,000.00
(k) For renewal of a permit to export samples for analysis ₦5,000.00

[New Import and Export Control Regulations, 2001]

60. Rents

(1) A rent of ₦500 shall be payable for each calendar year for which an oil exploration licence is in force; and, where the licence is in force for only a part of a calendar year, that part shall be regarded as a calendar year for the purposes of this paragraph.

(2) The annual rent payable on an oil prospecting licence or an oil mining lease shall be:
   (a) on an oil prospecting licence, for each square mile or part thereof US $10
   (b) on an oil mining lease —
      (i) for each square kilometre or part thereof of a producing oil mining lease for the first ten years US $20
      (ii) thereafter for each square kilometre or part thereof until expiration of the lease and on renewal US $15

[S.I. 3 of 2001]

61. Royalties

(1) The licensee or lessee shall pay to the Minister not more than one month after the end of every quarter (including the quarter in which his licence or lease becomes effective), or otherwise as the Minister may direct—
   (a) royalty at a rate \textit{per centum} of the chargeable value (calculated in accordance with paragraph (3) of this regulation) of the crude oil and casing head petroleum spirit produced from the relevant area in the relevant period as follows:
      (i) In onshore areas ............................................................ 20 per cent
      (ii) In areas up to 100 metres water depth ........................ 18.5 per cent
      (iii) In areas up to 200 metres water depth ......................... 16.5 per cent
      (iv) In areas from 201 to 500 metres water depth ............. 12.5 per cent
      (v) In areas from 501 to 800 metres water depth .......... 8 per cent
      (vi) In areas from 802 to 1000 metres water depth ........... 4 per cent
      (vii) In areas beyond 1000 metres water depth ................ 0 percent

[S.I. 8 of 1995]

(b) royalty at a rate \textit{per centum} of the price received by a licensee or lease in the relevant area and sold but does not include any flare or waste gas appropriated by the Government of the Federation for its own use or for any purpose approved by it, as follows:
   (i) Onshore areas ............................................................... 7 per cent
   (ii) Offshore areas ............................................................... 5 per cent

[S.I. 8 of 1995]

(c) All natural gas liquids extracted from natural gas and spiked into the oil stream shall be treated as oil so however that all natural gas extracted and sold shall attract royalty at a rate \textit{per centum} of the price received equivalent to the applicable rate \textit{per centum} of the natural gas from which it is extracted.

(2) If any dispute arises as to the amount of royalty due for a quarter, the licensee or lessee—
   (a) shall pay within the time provided by or under paragraph (1) of this regulation whatever he admits to be due; and
   (b) where on the settlement of the dispute by agreement, arbitration or otherwise any further amount is agreed of found to be due, shall pay that further amount within seven days of the settlement.

(3) The chargeable value for the purpose of paragraph (1)(a) of this regulation shall be calculated by—
   (a) ascertaining the quantity of crude oil and casinghead petroleum spirit produced in the relevant quarter from each field operated by the licensee or lessee in the relevant area;
   (b) reducing that quantity (which shall be certified by the Director of Petroleum Resources) by the deduction of—
      (i) any crude oil or casinghead petroleum spirit certified by the Director of Petroleum Resources to have been used by the licensee or lessee in the relevant quarter for the purpose of carrying on drilling and production operations, or pumping to storage and refineries, in Nigeria;
      (ii) any crude oil or casinghead petroleum spirit certified by the Director of Petroleum Resources to have been injected or returned by the licensee or lessee into a formation in the relevant quarter; and
      (iii) any reasonable pipeline or evaporating losses of crude oil or casinghead petroleum spirit approved
by the Director of Petroleum Resources as having been incurred by the licensee or lessee in the relevant quarter;
(c) multiplying the price of that reduced quantity by the number of barrels to which that reduced quantity is equivalent, and adding together the results for all fields operated by the licensee or lessee in the relevant area; and
(d) deducting from the combined results arrived at under sub-paragraph (c) of this paragraph, a sum arrived at by adding together the amounts of any costs approved by the Director of Petroleum Resources as having been properly incurred in respect of each such field by the licensee or lessee in handling, treating and storing that reduced quantity and in transporting it from the field to a tankship at a Nigerian port or to a refinery in Nigeria.

(4) In this regulation “price”, in relation to crude oil and casinghead petroleum spirit, means the price free on board at a Nigerian port of export (or, in the case of crude oil or casinghead petroleum spirit delivered to a refinery in Nigeria, the price approved by the Director of Petroleum Resources at which the oil or spirit is delivered to the refinery) for oil and spirit of the gravity and quality in question, being a price which—
(a) is from time to time established by the Minister as its price for Nigerian Crude Oil or casing-head petroleum spirit, as the case may be, of that gravity and quality; and
[S.I. 8 of 1995]

(b) bears a fair and reasonable relationship—
(i) to the established posted prices of Nigerian crude oil or Nigerian casing-head petroleum spirit of comparable quality and gravity, or
(ii) where there are no such established posted prices, to the posted prices at main international trading export centres for crude oil or casing-head petroleum spirit of comparable quality and gravity, due regard being had in either case to freight differentials and all other relevant factors.

62. Royalties for onshore and shallow offshore production sharing contracts
The following royalties for onshore and shallow offshore Production Sharing Contracts shall be applicable—
(a) Onshore—
(i) for production below 2 thousand barrels of oil per day .......................................... 5.0%
(ii) for production between 2 and 5 thousand barrels of oil per day ............................ 7.5%
(iii) for production between 5 and 10 thousand barrels of oil per day .......................... 15.0%
(iv) for production above 10 thousand barrels of oil per day .......................................... 20%
(b) Offshore up to water depth of 100 metres —
(i) for production below 5 thousand barrels of oil per day .......................................... 2.5%
(ii) for production between 5 and 10 thousand barrels of oil per day ............................ 7.5%
(iii) for production between 10 and 15 thousand barrels of oil per day .......................... 12.5%
(iv) for production above 15 thousand barrels of oil per day .......................................... 18.5%
(c) Offshore between water depth of 100 and 200 metres —
(i) for production below 5 thousand barrels of oil per day .......................................... 1.5%
(ii) for production between 5 and 10 thousand barrels of oil per day ............................ 3.0%
(iii) for production between 10 and 15 thousand barrels of oil per day .......................... 5.0%
(iv) for production above 15 and 25 thousand barrels of oil per day .............................. 10.0%
(v) for production above 25 thousand barrels of oil per day ........................................... 16.67%
[S.I. 6 of 2003]

63. Interpretation
(1) In these Regulations, unless the context otherwise requires—
“casing-head petroleum spirit” means any liquid hydrocarbons which—
(a) have been obtained from natural gas by natural separation or by any chemical or physical process; and
(b) have not been refined or otherwise treated;
“Minister” means the Minister charged with responsibility for matters relating to petroleum resources and “Ministry” shall be construed accordingly;
[S.I. 2 of 1990]
“Nigerian” means citizen of Nigeria and “non-Nigerian” and “Nigerianisation” shall be construed accordingly;
“quarter” means quarter of a calendar year;
“relevant area”, in relation to an oil exploration licence, oil prospecting licence or oil mining lease, means
the area affected by the licence or lease;
“State authority” means the Governor of a State or such other authority in the State as may be designated
by the Governor;
“State land” means State within the meaning of the Land Use Act;
[Cap. L5]

“termination”, in relation to an oil prospecting licence or an oil mining lease, means expiration by effluxion
of time or otherwise or any other form of determination (including termination by the licensee or lessee and,
in relation to any part of the relevant area in respect of which a lessee surrenders his lease, that surrender).

(2) In Parts III, IV and V of these Regulations and in regulation 60 thereof, “licence or lease” and “the licensee
or lessee” means respectively, unless the context otherwise requires, an oil prospecting licence or an oil
mining lease and the holder of such a licence or lease.

(3) Any reference in these Regulations (however expressed) to an oil exploration licence, an oil prospecting
licence or an oil mining lease includes, unless the context otherwise requires, a reference to any extension or
renewal of the licence or lease.

64. Short title
These Regulations may be cited as the Petroleum (Drilling and Production) Regulations.

SCHEDULE

Form of application

FORM A
[Regulations 1, 10, 14 and 35]

Application for an oil exploration/prospecting licence/oil mining lease

Description of the premises above referred to-
1. Name of Applicant..............................................................................................................
2. Address.................................................................................................................................
3. Nationality* .........................................................................................................................
4. Occupation...........................................................................................................................
5. Principal place of business in Nigeria..................................................................................

6. Directors:

<table>
<thead>
<tr>
<th>Names</th>
<th>Addresses</th>
<th>Nationality</th>
</tr>
</thead>
<tbody>
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</tr>
</tbody>
</table>

7. Type of licence applied for .................................................................
8. Period for which licence is required ............................................................
9. Area applied for in sq. miles ..........................................................................
10. Capital available to the applicant for operations under the licence ......................

I declare that all the foregoing particulars are correct.
Date .................................................................................................................

Signature of Applicant or his Attorney

* Particulars of documents attached to the application should be listed below or at the back of this page.
FORM B

Oil exploration licence No. ………………………………………………………………………………………………………………………

This licence is hereby granted from the date hereof to…………………………………………………………………………………………

(Name of Company) ……………………………………………………………………………………………………………………………

(Registered Address)

to explore for petroleum by surface geological and geophysical methods in the areas described in the schedule hereto and delineated in red in the plan attached.

2. The licence is granted subject to the Petroleum Act and the regulations thereunder now in force or which may come into force during the continuance of this licence.

3. The licence confers no exclusive rights, nor rights with respect to the grant of oil prospecting licences or oil mining leases.

4. Within thirty days after the expiry of this licence a report on the work done shall be submitted in triplicate to the Directory of Petroleum Resources, and a copy sent to the Director of Geological Survey. The report shall be accompanied by all necessary maps and data. Rock samples, where applicable, shall be sent to the Director of Geological Survey.

5. The discovery of any mineral deposits shall be reported without delay to the Director of Petroleum Resources.

6. This licence shall expire on the 31st day of December, 20…………………………………………………………………………………………

DATED this ………………….day of ………………………………………………………… 20………………..

………………………………………………………………………………………..

Minister of Mines, Power and Steel

Witness to signature…………………………………………………………………………………………………………………

Signed on behalf of the company by…………………………………………………………………………………………………………

………………………………………………………………………………………..

Attorney

Witness to signature…………………………………………………………………………………………………………………

FORM C

Oil Exploration licence No. ………………………………………………………………………………………………………………………

This licence is hereby granted for a term of ………………………………………………………………. years commencing on the …………………. day of ………………………………………. 2001……… to ……………………

(name of company) ……………………………………………………………………………………………………………………………

(address of company)

to explore for petroleum in, upon and under the lands described in the schedule hereto and delineated in red in the plan attached.

2. The licence is granted subject to the Petroleum Act and the regulations thereunder now in force or which may come into force during the continuance of this licence *[and also subject to the special terms and conditions in the Annex attached hereto].

3. In witness hereof the Minister of Mines, Power and Steel has hereunto set his hand and seal this …………………. day of ………………………………………. 20………………..

………………………………………………………………………………………..

Minister of Petroleum Resources

Witnessed by: ………………………………………………………………………………………………………………… (Occupation) ………………………………………………………………………………………………………………… (Address)
and the Attorney of the company has on their behalf hereunto set his hand and seal this ………………………………..

day of ……………………………………………………………… 20 …………………………………………..

…………………………………………………………………………………………………………………………
Attorney

Witnessed by: …………………………………………………………………………… (Name)
…………………………………………………………………………………………….. (Occupation)
…………………………………………………………………………………………….. (Address)

* Delete if inapplicable.

_________________________

FORM D

Oil mining lease No. ………………………………………………………………………………………………………..

This Oil Mining Lease is granted to ………………………………………………………………………………………
(amount of company)
of ………………………………………………………………………………………………………………………………..
(address of company)
for a term of ……………………… years commencing on the …………………… day of ……………………………… 2001
to search for, win, work, carry away and dispose of all petroleum in, under or throughout the lands described in
the schedule hereto and delineated in red in the plan attached.

The lease is granted subject to the Petroleum Act and the regulations thereunder now in force or which may
come into force during the continuance of this lease *[and also subject to the special terms and conditions in the
Annex attached hereto].

In witness hereto the Minister of Petroleum Resources has hereunto set his hand and seal this ……………….. day of
…………………………………………………………………………………………………………………………….. 20 …………………………………

…………………………………………………………………………………………………………………………
Minister of Mines, Power and Steel

Witnessed by: ………………………………………………………………………………………………………………….. (Occupation)
…………………………………………………………………………………………………………………………….. (Address)
and the Attorney of the company has on their behalf hereunto set his hand and seal this………………….. day of
…………………………………………………………………………………………………………………………….. 20 …………………………………

…………………………………………………………………………………………………………………………
Attorney

Witnessed by: ………………………………………………………………………………………………………………….. (Name)
…………………………………………………………………………………………………………………………….. (Occupation)
…………………………………………………………………………………………………………………………….. (Address)

*Delete if inapplicable.
FORM E

Application for a licence to operate a drilling rig

1. Name of Company ...............................................................................................................................................................................
2. Registered Address in Nigeria ...........................................................................................................................................................
3. Subsidiary or Affiliate of ...............................................................................................................................................................
4. Nationality of Parent Company or Affiliate ...................................................................................................................................
5. Directors:
   Names                      Addresses                      Nationality
   .................................................................
   .................................................................
   .................................................................
   .................................................................

6. Name of Drilling Rig ..............................................................................................................................................................................
7. Type of Drilling Rig ..............................................................................................................................................................................
8. Year of Manufacture ..............................................................................................................................................................................
9. Specifications ....................................................................................................................................................................................... 

10. Other complementary equipment, renders, etc. .................................................................................................................................
11. Company/Companies to which rig will be contracted ...................................................................................................................
12. Present location of Rig ............................................................................................................................................................................
13. Date of arrival in Nigeria .................................................................................................................................................................
14. Probable duration of operation in Nigeria ........................................................................................................................................
15. Date of last overhaul ...............................................................................................................................................................................
16. Estimated date of next overhaul ....................................................................................................................................................... 
17. Place and date of last safety inspection ........................................................................................................................................
18. Name of Inspecting Authority ............................................................................................................................................................

I declare that all the foregoing particulars are correct.

Date .......................................................... [Signature of Application or his Attorney]

FORM F

Licence to operate a drilling rig

Licence No. ..........................................................................................................................................................................................

This licence is hereby granted to ...............................................................................................................................................................

of .................................................................................................................................................................................................

to operate the drilling rig of which particulars are given below:

Name of Rig ........................................................................................................................................................................................
Type of Rig ........................................................................................................................................................................................

2. This licence expires on the 31st day of December 20............................................ Fee paid: #500.

DATED this .................................................. day of .............................................. 20 ............................................
PETROLEUM (DRILLING AND PRODUCTION) (AMENDMENT) REGULATIONS 1988

ARRANGEMENT OF REGULATIONS

REGULATION

1. Movements of Officers
2. Loss of Cheques
3. Loss of Internal Audit Stamps
4. Loss of Security Documents

PETROLEUM (DRILLING AND PRODUCTION) (AMENDMENT) REGULATIONS 1988

Commencement [23rd February 1988]

(In exercise of the powers conferred upon me by section 8 of the Petroleum Act 1969, and of all other powers enabling me in that behalf, I, Minister of Petroleum Resources hereby make the following Regulations:

1. The Petroleum (Drilling and Production) Regulations 1969 is hereby amended—

(a) by inserting immediately after regulation 15 thereof, the following new regulation, that is—

15A. The holder of an oil mining lease, licence or permit issued under the Petroleum Act 1969 or under regulations made thereunder or any other person registered to provide any services in relation thereto, shall not remove any worker from his employment except in accordance with guidelines that may be specified from time to time by the Minister.”

(b) in regulation 32 thereof—

(i) by substituting for paragraph 1, the following new paragraph that is—

“(1) No borehole or well shall be commenced, or re-entered after work has been stopped for six months, without the written permission of the Director of Petroleum Inspectorate and the payment of a fee ₦50.00.”

(ii) by substituting for paragraph (3, the following new paragraph, that is—

“(3) Where the Director of Petroleum Inspectorate is satisfied with the programme, he shall upon a fee of ₦50.00 being paid by the licensee or leasees, give his written approval to the drilling of the well together with such observation and comments as he may wish to make.”

(c) by substituting for regulation 58 thereof, the following new regulation, that is —

“Fees. 58, The following fees shall be payable—

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Oil Exploration Licence</td>
<td>100.00</td>
</tr>
<tr>
<td>(b) Oil Prospecting Licence</td>
<td>200.00</td>
</tr>
<tr>
<td>(c) Oil Mining Lease</td>
<td>400.00</td>
</tr>
<tr>
<td>(d) Renewal of Oil Mining Lease</td>
<td>500.00</td>
</tr>
<tr>
<td>(e) On an application to withdraw any of (a), (b) and (c) above</td>
<td>100.00</td>
</tr>
<tr>
<td>(f) To assign or sublet on contract an Oil Prospecting Licence or Oil Mining Lease</td>
<td>400.00</td>
</tr>
<tr>
<td>(g) To terminate or effect a partial surrender of an Oil Prospecting Licence or Oil Mining Lease</td>
<td>200.00</td>
</tr>
<tr>
<td>(h) Application for Licence to operate a Drilling Rig</td>
<td>200.00</td>
</tr>
<tr>
<td>(i) Licence to operate a Drilling Rig</td>
<td>1,000.00</td>
</tr>
<tr>
<td>(j) Permit to export samples for analysis</td>
<td>50.00</td>
</tr>
<tr>
<td>(k) Renewal of permit to export samples for analysis</td>
<td>50.00</td>
</tr>
</tbody>
</table>

(d) in regulation 59 thereof by substituting for sub-paragraphs (a) and (b) of paragraph (2), the following new paragraphs, that is—

“(a) on an Oil Prospecting Licence (OPL)—

(i) Application fee                                      | 200.00 |
(ii) Grant fee — ₦1 per sq km or part thereof            |

"Holder of oil mining lease to comply with guidelines.
(iii) Annual rent—₦3 per sq km or part thereof.

(b) on an Oil Mining Lease (OML)—

   (i) Application fee 100.00
   (ii) Grant fee ₦2.50 per hectare or part thereof
   (iii) Annual rent—₦7.50 per hectare or part thereof, per annum for the first 10 years, and thereafter ₦15 per hectare or part thereof per annum until the expiration of the lease and on renewal."

(c) by inserting immediately after regulation 60 and in Part VII thereof, the following new regulation, that is)—

60A (1) No company shall render or be engaged to render any technical service to the oil industry without first being registered and issued a permit to carry out such services by the Director of Petroleum Inspectorate.

(2) Application for registration shall be made in writing to the Director specifying the category of permit required and accompanied by the fees relating thereof as prescribed under paragraph (5) of this regulation.

(3) The Director shall on receipt of an application under paragraph (2) of this regulation, if he thinks fit, register the applicant and issue him a permit in the relevant category under this regulation.

(4) Any permit issued under paragraph (3) of this regulation shall be valid for one year and thereafter may be renewed on the payment of the fees prescribed under paragraph (5) of this regulation and subject to the company having satisfied the other conditions as stipulated by the Petroleum Inspectorate.

(5) The fees payable under paragraphs (2) and (4) of this regulation are—

   (a) General Purpose Category)—₦ : K

      (i) Application fee 20.00
      (ii) Renewal fee 20.00

   (b) Other Categories)—

      (i) Application fee 100.00
      (ii) Renewal fee 100.00

60a. Any person who)—

   (a) Commits a breach of any of the provisions of these Regulations; or
   (b) Fails to comply with any provisions of these Regulation or any directives given thereunder or any condition of any permit or licence issued thereunder; or
   (c) Fails to permit any inspection required under these Regulations; or
   (d) Makes a false declaration required by the Director of Petroleum Inspectorate or willfully furnishes information so required, which is in any respect false or insufficient:

      Commits an offence, and shall be liable on conviction to a fine not exceeding one hundred naira or to imprisonment for a term not exceeding six months or to both such fine and imprisonment, and in addition any permit, licence or lease granted to the offender under these Regulations or any regulation made pursuant to the Petroleum Act 1969 may be cancelled:"

2. These Regulations may be cited as the Petroleum (Drilling and Production) (Amendment) Regulations 1988.

Made at Lagos this 23rd day of February 1988

RILWANU LUKMAN
Minister of Petroleum Resources

EXPLANATORY NOTE
(This note does not form part of the above Regulations but is intended to explain their purport)

The Regulations amend the Petroleum (Drilling and Production) Regulations 1969 to make provisions for registration of contractors rendering technical services to oil companies to ensure their competence and also for compliance with the guidelines for the discharge of workers from employment in the Petroleum industry.

PETROLEUM (DRILLING AND PRODUCTION) (AMENDMENT) REGULATIONS 2001

In exercise of the powers conferred upon me by section 9 of the Petroleum Act and of all other powers enabling me in that behalf, I OLUSEGUN OBASANJO, President of the Federal Republic of Nigeria/Minister of Petroleum Resources, hereby make the following Regulations:

1. The Petroleum (Drilling and Production) Regulations 1969, as amended, is hereby further amended—
   (a) in regulation 58 thereof by substituting therefore the following new regulation, that is—
      “Fees.  58. The following fees shall be payable—
              (a) on an application for oil prospecting licence US $10,000;
              (b) for a processing fee US $10,000;
              (c) on an application for an oil mining lease US $500,000;
              (d) on an application for a renewal of an oil mining lease US $1,000,000;
              (e) on an application to withdraw any of the applications specified in paragraphs (a), (b), (c) and (d) of this regulation N 20,000
              (f) on an application to assign or sublet on contract an oil prospecting licence or an oil mining lease N 500,000;
              (g) on an application to terminate or effect a partial surrender of an oil prospecting licence or an oil mining lease N 50,000;
              (h) on an application for a licence to operate a drilling rig N 20,000;
              (i) for a licence to operate a drilling rig N 100,000;
              (j) for permit to export samples for analysis N 10,000;
              (k) for renewal of a permit to export samples for analysis N 5,000;”;
   (b) in regulation 59 thereof by substituting for paragraph (2) the following new paragraph, that is—
      “(2) The annual rent payable on an oil prospecting licence or an oil mining lease shall be—
              (a) on an oil prospecting licence, for each square mile or part thereof US $10;
              (b) on an oil mining lease—
                  (i) for each square kilometer or part thereof of a producing oil mining lease for the first ten years US $20;
                  (ii) thereafter for each square kilometer or part thereof until expiration of the lease and on renewal US $15.”;

3. These Regulations may be cited as the Petroleum (Drilling and Production) (Amendment) Regulations 2001.

MADE at Abuja this 1 day of February 2000.

OLUSEGUN OBASANJO
President of the Federal Republic of Nigeria/
Minister of Petroleum Resources
In exercise of the powers conferred upon me by section 9 of the Petroleum Act and of all other
powers enabling me in that behalf, I, OLUSEGUN OBASANJO, President of the Federal Republic
of Nigeria/Minister of Petroleum Resources, hereby make the following Regulations:

1. The Petroleum (Drilling and Production) Regulations 1969, as amended, is hereby further
amended by inserting immediately after the existing regulation 60B thereof the following
new regulation 60C, that is—

60C. The following royalties for onshore and shallow offshore Production Sharing Contracts
shall be applicable—
(a) Onshore—
(i) for production below 2 thousand barrels of oil per day 5.0%
(ii) for production between 2 and 5 thousand barrels of oil per day 7.5%
(iii) for production between 5 and 10 thousand barrels of oil per day 15.0%
(iv) for production above 10 thousand barrels of oil per day 20%
(b) Offshore up to water depth of 100 meters—
(i) for production below 5 thousand barrels of oil per day 2.5%
(ii) for production between 5 arid 10 thousand barrels of oil per day 7.5%
(iii) for production between 10 and 15 thousand barrels of oil per day 12.5%
(iv) for production above 15 thousand barrels of oil per day 18.5%
(c) Offshore between water depth of 100 and 200 meters—
(i) for production below 5 thousand barrels of oil per day 1.5%
(ii) for production between 5 and 10 thousand barrels of oil per day 3.0%
(iii) for production between 10 and 15 thousand barrels of oil per day 5.0%
(iv) for production between 15 and 25 thousand barrels of oil per day 10.0%
(v) for production above 25 thousand barrels of oil per day 16.67%.

2. These Regulations may be cited as the Petroleum (Drilling and Production) (Amendment)
Regulations 2003.

MADE at Abuja this 16th day of May 2003.

OLUSEGUN OBASANJO
President of the Federal Republic of Nigeria/
Minister of Petroleum Resources

EXPLANATORY NOTE
(This note does not form part of the above regulations but is intended to explain its purport)

The Regulations provide fiscal regimes for onshore and shallow offshore Production Sharing
Contract.
PETROLEUM (DRILLING AND PRODUCTION) (AMENDMENT) REGULATIONS 2006

Commencement [10th March, 2006]

In exercise of the powers conferred upon me by section 9 of the Petroleum Act and of all other powers enabling me in that behalf, I, ÒLUSEGUN OBASANJO, President of the Federal Republic of Nigeria/Minister of Petroleum Resources, hereby make the following Regulations—

1. The Petroleum (Drilling Production) Regulations 1969, as amended, are hereby further amended in paragraph (a) of regulation 60 by substituting for the existing sub-paragraphs (i), (ii) and (iii) thereof, the following new sub-paragraphs (i) - (viii) —

   (i) In onshore areas 20 per cent

   (ii) In areas up to 100 metres water depth 18.50 per cent

   (iii) In areas up to 200 metres water depth 16.50 per cent

   (iv) In areas from 201 to 500 metres water depth 12.00 per cent

   (v) In areas 501 to 800 metres water depth 8.00 per cent

   (vi) In areas 801 to 1000 metres water depth 8.00 per cent

   (vii) In areas in water depth higher than 1000 metres 8.00 per cent

   (viii) Inland Basins 10.00 per cent

2. These Regulations may be cited as the Petroleum (Drilling and Production) (Amendment) Regulations 2006.

MADE at Abuja this 10th day of March 2006.

OLUSEGUN OBASANJO
President of the Federal Republic of Nigeria/
Minister of Petroleum Resources
In exercise of the powers conferred upon me by Section 20 of the West African Gas Pipeline Act and all other powers enabling me in that behalf, I, H. Odein Ajumogobia (SAN), Minister of State, Petroleum Resources, hereby make supplementary provisions to the West African Gas Pipeline Regulations in respect of Offshore Damage Prevention Programme as follows:

1. (1) The operator shall prepare a damage prevention programme-offshore to prevent the offshore section of the Pipeline System from mechanical damage and exposure from sub-sea erosion.

(2) For the purpose of sub-regulation (1), “mechanical damage” includes damage from anchors, chains, trawl boards, vessel groundings, dynamite fishing and sabotage and “erosion” is the eroding away of seabed support from sub-sea pipelines and the washing away of material covering the pipeline in engineered trenching zones.

2. The Damage Prevention Programme-Mechanical shall include:

(a) identification of companies which engage in permanent or regular transport and industrial marine operations in the vicinity of the pipeline;

(b) public awareness campaigns directed at stakeholders of the four States, as often as necessary to make them aware of the existence and purpose of the Damage Prevention Programme-Offshore;

(c) publication of pipeline routes on recognised nautical charts;

(d) correction of charts and publications by relevant organisations;

(e) notification and publications of temporary marine operations by the operator and companies engaged in permanent or regular transport and industrial marine operators in the vicinity of the pipeline;

(f) regulatory process that will enforce a protection zone for the Pipeline (the Pipeline Protection Zone) in the Nigerian Territorial Waters and Exclusive Economic Zone;

(g) active co-operation of the operator with Port authorities, the Nigerian Navy and other relevant State authorities in monitoring the enforcement of the Pipeline Protection Zone;

(h) maintenance by the operator of a marine liaison presence in the Region to ensure co-operation with Port authorities, the Nigerian Navy and other relevant State authorities;

(i) burial of the Cotonou and Lome lateral lines to a 0.75 metres minimum cover dept for protection against travel board impact;

(j) co-operation with Port authorities in the definition of surveillance procedures by Port authorities and in so doing—

(i) Port authorities to instruct vessels to keep anchor secured (as for ocean passage) when crossing the zone;

(ii) Port authorities to inform local traffic at sea of weather forecast for their area of jurisdiction;

(iii) Port authorities to issue advice of the existence of the zone on pre-arrival message to ships;

(iv) Maritime administration to issue advice to ship-to-ship transfer operators and to designate the transfer area away from the Pipeline in safe distance from the Zone;

(v) Port authorities to issue advice of the zone to fishing unions or organisations;

(vi) Verification that provisions of new charts incorporating the Pipeline and the zone are made to all stakeholders; and

(vii) Maritime administration to produce special rules of the zone for Single Buoy Mooring (SBM) or Catenary Buoy Mooring (CBM) if they operate within the zone.

Components of the Damage Prevention Programme-Offshore.
3. The prevention programme in respect of erosion shall include:
   (i) surveys and, if needed, correction measures to ensure that the Togo/Benin lateral lines remain buried as protection against trawl board impact;
   (ii) marine surveys to confirm status of marine pipeline as often as necessary but not less than once a year.

4. In these Regulations, unless the context otherwise requires the following words and expressions have the following meanings:
   “Catenary Buoy Mooring (CBM)” means an offshore system affixed to the ocean bottom that serves as a mooring point for ships;
   “Charts” means graphic representations of a section of ocean or other waterway. Also known as “marine chart” or “nautical chart”. Available in paper or electronic from respected sources such as the British Admiralty, the French Service Hydrographique et Oceanographique Maritime (SHOM) or U.S. National Oceanic and Atmospheric Administration (NOAA). Charts must be constantly updated by users;
   “Exclusive Economic Zone” means an area extending from the external limits of the territorial waters of Nigeria up to a distance of 200 nautical miles from the baseline from which the breadth of the territorial waters of Nigeria as measured;
   “Pipeline Protection Zone” means and area at least 1 nautical mile on each side of the Pipeline in the Territorial Waters and Exclusive Economic Zone of the Republic of Nigeria in which activities endangering the Pipeline are prohibited or regulated;
   “Port Authorities” means the Nigeria Ports and Harbours Authority;
   “Publications” means nautical information sources commonly used by seasoned professional mariners in navigation;
   “Region” means the territories of Benin, Ghana, Togo and Nigeria;
   “Relevant Organisations” means the UK Admiralty (United Kingdom), the French Service Hydrographique et Oceanographique Maritime (SHOM) and the United States Coast Guard and NOAA (United States);
   “Shipping Agent” means a person or firm that transacts business in a port, usually on behalf of ship owners or ship charterers;
   “Single Buoy Mooring (SBM)” means an offshore system affixed to the ocean bottom that serves as a mooring point for ships. Typically serve as a link between a sub-sea manifold and tanker ships;
   “Territorial Waters” include every part of the open sea within twelve nautical miles of the coast of Nigeria (measured from low water mark) or of the seaward limits of inland waters.

5. These Regulations may be cited as the West African Gas Pipeline (Offshore Damage Prevention Programme) Regulations, 2009.

MADE at Abuja this 21st day of December, 2009.

H. ODEIN AJUMOGOBIA, SAN
Minister of State, Petroleum Resources
MERCHANT SHIPPING (CIVIL LIABILITY FOR OIL POLLUTION DAMAGE AND COMPENSATION REGULATIONS 2010

ARRANGEMENT OF REGULATIONS

REGULATION:

PART I — APPLICATION

2. Geographical Application-Convention Ships.
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SCHEDULES

FIRST SCHEDULE

CERTIFICATE OF INSURANCE AND OTHER FINANCIAL SECURITY IN RESPECT OF CIVIL LIABILITY FOR OIL PRODUCTION DAMAGE

SECOND SCHEDULE

OIL REPORT FORM
In exercise of the powers conferred upon me by Sections 335(1), 335(3) and Sections 434 of the Merchant Shipping Act, 2007 and of all other powers enabling me in that behalf, I, IBRAHIM ISA BIO, Minister of Transportation, hereby make the following Rules:

PART I — APPLICATION

1. For ships other than Convention ships, these Regulations shall apply in respect of actual or anticipated pollution damage, irrespective of the actual or anticipated discharge of the pollutant and irrespective of the location where any preventive measures are taken to prevent or minimize such damage, (a) on the territory of Nigeria or in Nigerian waters; or (b) in the exclusive economic zone of Nigeria.

2. For Convention ships, these Regulations shall apply in respect of actual or anticipated pollution damage, irrespective of the actual or anticipated discharge of the pollutant and irrespective of the location where any preventive measures are taken to prevent or minimize such damage, (a) on the territory of Nigeria or in Nigerian waters; or (b) in the exclusive economic zone of Nigeria; (c) on the territory or in the territorial sea or internal waters or the exclusive economic zone of a country other than Nigeria which is a party to the Civil Liability Convention; or (d) if the country has not established an exclusive economic zone, in an area beyond and adjacent to the territorial sea of that country and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured.

3. (1) These Regulations do not apply to a drilling ship on location and engaged in the exploration or exploitation of the seabed or its subsoil in so far as a discharge of a pollutant emanates from these activities. (2) These Regulations do not apply to a floating storage unit or float production storage and offloading unit unless it is carrying oil as a cargo on a voyage to or from a port or terminal outside an offshore oil field.

PART II — CIVIL LIABILITY FOR POLLUTION DAMAGE

4. (1) The following provisions shall, subject to regulation 5 of these Regulations, have effect in relation to pollution damage in Nigeria which is caused by a ship carrying oil in bulk as cargo, whether such ship is within or outside Nigeria: (a) save as is otherwise provided by this Regulation, the owner of a ship at the time of the incident or, where the incident consists of a series of occurrences, at the time of the first of the occurrences, which caused pollution damage, shall be liable for such damage; (b) for costs and expenses incurred by— (i) the Minister; (ii) a response organization within Nigeria; (iii) any other person in Nigeria; or (iv) any person in a Country other than Nigeria, that is a party to the Civil Liability Convention, in respect of measures taken to prevent, repair, remedy or minimize oil pollution damage from the ship, including measures taken in anticipation of a discharge of oil from the ship, to the extent that the measures taken and the costs and expenses are reasonable, and for any loss or damage caused by those measures; (c) in any case where pollution damage results from the discharge of oil from two or more ships, the owner of each ship concerned shall, save as is otherwise provided...
by this Regulation, be jointly and severally liable or all such damage in so far as
such damage is not reasonably severable;
(d) an owner of a ship shall not incur any liability for pollution damage otherwise than
under this paragraph; and
(e) the servant or agent of the owner of a ship shall not be liable for pollution damage
caused by that ship.

(2) Nothing in these Regulations shall operate so as to prejudice any right of action which
the owner of a ship may have in respect of an incident against any third party.

5. If oil pollution damage from a ship results in impairment to the environment, the owner of
the ship is liable for the costs of reasonable measures of reinstatement actually undertaken or
to be undertaken.

6. The owner of a ship which has caused pollution damage shall not be liable for such damage
if he proves that the discharge of oil which caused the for damage-
(a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon
of an exceptional, inevitable and irresistible character; or
(b) was due wholly to anything done, or left undone, by any other person (other than a
servant or agent of such owner) with intent to do damage; or
(c) was due wholly to the negligence or wrongful act of any government or other authority
responsible for the maintenance of lights or other navigational aids in the exercise of that
function.

7. Where pollution damage is caused in Nigeria and in one or more convention countries by
a ship carrying oil in bulk as cargo, whether such ship is within or outside Nigeria, and the
owner of such ship is liable for such damage pursuant to regulation 4 of these Regulations,
and where the owner of another such ship is liable for such damage under the law of any
other convention country, the liability for such damage shall be regarded, for the purposes of
these Regulations and for the purposes of any legal proceedings under these Regulations in
relation to such damage, as having been incurred in Nigeria.

8. The ship-owner shall be entitled to limit his liability to an amount calculated on the basis of
the tonnage of the ship in respect of an incident if the ship has a gross tonnage—
(a) of not more than 5,000 tonnes, the limit shall be 4,510,000 units of account;
(b) between 5,000 tonnes and 140,000 tonnes, the limit shall be 4,510,000 units of account
for the first 5,000 tonnes plus 631 units of account for each additional tonnes; and
(c) of 140,000 and above, the limit shall be 89,770,000 units of account.

9. The maximum liability under regulation 7 of these Regulations of an owner of a ship other
than a convention ship in respect of an incident shall be as determined in accordance with
Part XXV, section 351 of the Act.

10. The ship-owner shall be deprived of the right to limit his liability under regulation 9
of these Regulations if it is proved that the actual or anticipated oil pollution damage
resulted from his personal act or omission, committed with the intent to cause the oil
pollution damage or recklessly and with knowledge that the oil pollution damage would
probably result.

11. The ship-owner shall constitute a fund for the total sum representing the limit of his liability
with the court or Nigerian Maritime Administration and Safety Agency or a competent
Authority of a Convention State in which the action is brought.

12. (1) Where the owner of a ship has, or is alleged to have incurred liability for pollution damage
under these Regulations, he may apply to the court for an order limiting his liability for such
damage to an amount circulated in accordance with the provisions of regulation 8 of these
Regulations.
(2) If, on the hearing of an application under paragraph (1) of this regulation, the court finds
that the applicant—
(a) has incurred liability for pollution damage; and
(b) is entitled to limit his liability in accordance with these Regulation, the court shall order the payment into court of the amount of a limit of liability, so determined and the payment shall be made in Nigerian currency or its equivalent in foreign currency.

13. The Court, after determining the limit of the liability of the ship owner and after ordering the payment into Court of any amount so determined, shall—
(a) determine the amounts (if any) due to any person or persons making a claim against such owner in respect of incident; and
(b) direct, subject to the subsequent provisions of this paragraph, that the amount paid into court be distributed in proportion to their respective claims.

14. Where a Limitation Fund has been constituted in accordance with regulation II of these Regulations, any person having made a claim against the fund shall be barred from exercising any right in respect of such claim against any other assets of a person by or on behalf of whom the fund has been constituted.

15. (l) For the purpose of converting such an amount from special drawing rights into Nigerian currency, one special drawing right shall be treated as equal to such a sum in Nigerian currency as the International Monetary Fund have fixed as being the equivalent of one special drawing right for-
(a) the day on which the determination is made; or
(b) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed.

(2) A certificate given by or on behalf of the Central Bank of Nigeria and stating that—
(a) a particular sum in Nigerian currency has been so fixed for the day on which the determination was made; or
(b) no sum has been so fixed for that day and that a particular sum in the Nigerian currency has been so fixed for a day which is the last day for which a sum had been so fixed before the day on which the determination was made, shall be evidence until the currency is proved of those matters for the purposes of these Regulations.

(3) A document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.

16. (1) All Nigerian Flag ships carrying in bulk cargo of more than 2,000 tonnes of oil shall be required to maintain an insurance or other financial security, such as the guarantee of a bank or a certificate delivered by an International Compensation Fund, in the sum fixed by applying the limits of liability prescribed in Part III of these Regulations, to cover his liability for any pollution damage.

(2) The ship-owner shall belong to an International Group of Protection and Indemnity (P and I) Club.

(3) All ships shall carry on board a certificate attesting that the requirements in paragraphs (1) and (2) of this regulation have been complied with. The certificate must be:
(a) if the ship is a Nigerian flagged ship, a certificate issued by the Minister;
(b) if the ship is registered in a Convention Country other than the Federal Republic of Nigeria, a certificate issued by or under the authority of the Government of the Convention Country;
(c) if the ship is registered in a Country which is not a Convention State, a certificate issued by the Minister or by or under the Authority of the Government of any Convention Country other than the Federal Republic of Nigeria.

(4) Any certificate required by this section in relation to the existence of a contract of insurance or other financial security in respect of a ship shall be carried on board the ship and shall, on demand, be produced by the master of the ship to any duly authorised inspector.

(5) If a ship enters or leaves, or attempts to enter or leave, a port, or arrives at or leaves, or attempts to arrive at or leave, a terminal installation or offshore terminal in Nigeria in contravention of this section, the owner and master of the ship shall each be guilty of an offence and liable on conviction to a fine not less than ₦50 million.
(6) If a ship fails to carry a certificate on board as required by this section or if the master of the ship fails to produce such certificate on demand by a duly authorised inspector, the master shall be guilty of an offence and liable on conviction to a fine not less than ₦25 million.

(7) If a ship attempts to leave a port, terminal installation or offshore terminal in Nigeria in contravention of this regulation, the ship may be stopped and detained by a duly authorised inspector.

(8) If a ship which has been detained by a duly authorised inspector, pursuant to paragraph (7) of this regulation leaves or attempts to leave a port, terminal installation or offshore terminal otherwise than in accordance with the provisions of these Regulations, the master of the ship shall be guilty of an offence and on conviction liable to a fine of ₦25 million.

17. All Nigerian flagged ships carrying in bulk cargo of less than 2,000 tonnes of oil shall be required to maintain insurance or other financial security, such as the guarantee of a bank or a certificate delivered by an international compensation fund, in the sum equivalent to the ship’s liability under regulation 7 of these Regulations.

18. Application to obtain the certificate stipulated in regulation 16 (3) shall be made to the Minister and such application shall be accompanied with a blue card address to the Minister and duly signed by the ship insurer.

19. (1) On an application to the Minister for a certificate in respect of a Convention ship registered in Nigeria or in a non Convention State, the Minister shall, subject to paragraph (2) of this regulation, issue such a certificate to the owner of the ship if the Minister is satisfied that a contract of insurance or other security satisfying the requirements of Article VII of the Civil Liability Convention shall be in force in respect of the ship throughout the period for which the certificate is issued.

   (2) The Minister may refuse to issue the certificate referred to in paragraph (1) of this regulation if he believes that the guarantor will be unable to meet its obligations under the contract of insurance or other security referred to in subsection (1), or that the insurance or other security Will not cover the owner’s liability under regulation 7 of these Regulations.

20. The Minister may revoke a certificate issued pursuant to regulation 19 of these Regulations, if he believes that the information given in support of the application was false and such certificate shall be delivered to the appropriate authority. Failure by the ship-owner to deliver up the certificate so revoked shall attract a fine not less than ₦5 million.

21. Where it is alleged that the owner of a ship is liable for pollution damage under regulation 4 of these Regulations, and the ship at the time of the incident has on board a valid certificate of insurance or other security issued under regulation 19 of these Regulation, proceedings may be brought against the guarantor to enforce a claim in respect of any such damage.

22. (1) A claim shall not be admitted by the court under these Regulations unless such claim is made within three years after the date on which the pollution damage occurred and not later than six years after the date of the incident which occasioned the damage.

   (2) Where the incident occasioning the damage consists of a series of occurrences, a claim shall not be admitted in any Court under these Regulations except such claim is made within six years from the date of the first of those occurrences.

23. (1) Without prejudice to any power to detain a ship contained in any other enactment, a duly authorised inspector may stop or detain a ship in any port in Nigeria if it appears to the inspector that the owner of the ship has incurred a liability under regulation 4 of these Regulations for pollution damage caused by any ship which he owns.

   (2) Where the Court has determined that a person, who has incurred a liability for pollution damage under regulation 4 of these Regulations, is entitled to limit his liability, and such person has paid into Court a sum not less than the amount determined by the Court to be the limit of his liability, then—

   (a) the Court shall, on application by or on behalf of the owner, order the release of any ship
detained under this section in respect of any liability for pollution damage, or, as the case may be, the release of any security given to prevent, or obtain release from, such arrest, and (b) a judgment or Act in relation to any claim for damages for pollution damage shall not be enforced, except in so far as such judgment or Act relates to costs.

(3) If a ship which has been detained pursuant to this section leaves, or attempts to leave, any port, terminal installation, offshore terminal or any other place in Nigeria otherwise than in accordance with the provisions of these Regulations, the owner and the master of the ship shall each be guilty of an offence and may be liable on conviction to a fine not less #5 million naira and the ship may be further detained by a duly authorised inspector anywhere in Nigeria.

24. (1) The Federal High Court shall exercise jurisdiction in rem against any ship which is the subject of a claim or against any proceeds of sale of such Jurisdiction in ship that has been paid into the court.

(2) No action in rem shall be commenced against—
(a) a war ship, coastguard ship, or police vessel
(b) a ship owned or operated by the Federal or State Government if the ship is engaged on government service; or
(c) a ship owned or operated by the Government of a Convention Country or any cargo carried on such ship with respect to a claim if at the time the claim arose or the action is commenced the ship was being used exclusively for Government non-commercial purposes.

25. (1) If a foreign judgment has been rendered, the judgment creditor may at any time during which the foreign judgment is enforceable in the State in which it was rendered, apply to the Federal High Court in accordance with its rules to have the foreign judgment registered in that Court.

(2) Subject to paragraphs (3) and (4) of this regulation, the court may on application made under paragraph (1) of this regulation, order the registration of the foreign judgment if it is satisfied that—
(a) a case for registration has been established; and
(b) the foreign judgment is not under appeal and is no longer subject to appeal in the Country in which it was rendered.

(3) If, under the rules of the Court, the judgment debtor appears at the hearing of an application made under paragraph (1) of this regulation, the court may not order the registration of the foreign judgment if it is satisfied that—
(a) the foreign judgment has been fully satisfied
(b) the foreign Court acted without jurisdiction
(c) the foreign judgment was obtained by fraud; or
(d) the defendant in the foreign action was not given reasonable notice and or a fair opportunity to present their case.

PART III — INTERNATIONAL OIL POLLUTION COMPENSATION FUND

26. For the purposes of the rights and obligations described in these Regulations, the Fund shall have the capacity, rights and obligations of a natural person in all legal proceedings before the Court in Nigeria, and the Director of the Fund shall be its legal representative.

27. (1) Subject to the provisions of these Regulations, the Fund shall be liable for pollution damage in Nigeria caused by the discharge of oil from ship carrying oil in bulk as cargo, whether such ship is within or outside Nigeria.

(2) The Fund shall be liable for pollution damage in any case where-
(a) a liability for damages does not arise under regulation 4 of these Regulations, or
(b) the person who suffered the damage has been unable, after taking all reasonable Steps to pursue every legal remedy available to him, to obtain full satisfaction of the amount of compensation due to him under these Regulations; or
(c) the owner of the ship concerned has limited his liability under these Regulations and the amount of Compensation due exceeds such limit.
28. (1) The Fund shall not be liable for pollution damage if it is proved that the discharge of oil which
caused the pollution damage resulted from an act of war, hostilities, civil war or insurrection or
was caused by oil which has escaped or been discharged from a warship or other ship owned
or operated by the Federal Government of Nigeria or a State or by a Convention Country and
used, at the time of the incident for government non-commercial service.

(2) The Fund may be wholly or partly relieved from liability for pollution damage if it is established
that the discharge of oil which caused the pollution damage was due wholly or partly to—
(a) anything done or left undone by the person who suffered the pollution damage with
intent to cause damage;
(b) the negligence of the person who suffered the pollution damage:
    Provided that this section shall not apply to the cost of any reasonable measures
    taken after an incident has occurred to prevent or to minimise pollution damage.

(3) Subject to paragraph 4 and (5) of this regulation, the Fund shall, in accordance with the
provisions of these Regulations, indemnify the owner of a ship or his guarantor against
his liability under paragraph 1 or 4 of this regulation.

(4) A liability shall not be imposed on the Fund under paragraph (3) of this regulation
in any case where it is established that the pollution damage resulted from the wilful
misconduct of the owner of the ship.

(5) The Fund may be wholly or partly relieved from its liability under paragraph (3) if it
is established that, because of the actual fault or privity of the owner of the ship, the
pollution damage was wholly or partly occasioned by the non-compliance with the
provisions of any Convention in relation to:
(a) safety at sea; or
(b) pollution of the sea,
    which may be specified by, or in accordance with, the Fund Convention.

29. The fund’s liability under regulation 27 of these Regulations shall be subject to the limits
imposed by paragraphs 4 and 5 of Article 4 of the Fund Convention; and in those provisions
references to the liability convention are references to the Liability Convention within the
meaning of these Regulations.

30. (1) Subject to paragraph (2) of this regulation, no action shall be taken brought against the
Fund—
    (a) after three years from the date on which the pollution damage occurred unless action
    for compensation has commenced under these Regulations against the owner of the
    ship or his guarantor and the Fund duly notified by any part thereto; or
    (b) after six years from the date of the incident which caused the pollution damage:
        Provided that, where the incident causing the pollution damage consists of a series
        of occurrences, the period of six years specified in this paragraph shall be deemed to
        commence on the occurrence of the first of the incidents.

(2) The right of the owner of a ship or his guarantor to seek indemnification from the Fund
pursuant to Section 14 (5) of (the Act) shall not, in any case, be extinguished before the
expiry of a period of six months after the date on which such owner or his guarantor first
became aware that a claim for damages under the Act was brought against him.

31. Where an incident which results in the Fund being liable for compensation or indemnity under
these Regulations occasions pollution damage in the territory of Nigeria and in one or more other
Convention Countries, proceedings under these Regulations may be taken, and the incident may
for all incidental purposes be treated as having occurred, in any place in the territory of Nigeria.

32. (1) The Federal or State Government may be party to any claim for compensation for pollution
damage against the owner of a ship or his guarantor or against the Fund either under these
Regulations or under the corresponding law in any Convention Country.
(2) Any claim brought on behalf of the Federal or State Government under paragraph (1) of
this regulation may be brought and prosecuted by the Minister.
(3) Any claim brought on behalf of the Federal or State Government under paragraph (1)
of this regulation may include a claim for any amount paid by such government to any person who has suffered pollution damage in the territory of Nigeria or in any other Convention Country as a result of an incident in respect of which the claim is made.

33. (1) The Federal High Court shall be competent to entertain all actions against the Fund in Nigeria for compensation for oil pollution damage Fund arising under article 4 of the Fund Convention as if such action had been brought against the ship owner who is or would have been liable for pollution damage caused by the relevant incident.

(2) The Federal High Court shall have exclusive jurisdiction to entertain all actions for compensation against the Fund brought under article 4 of the Fund Convention.

(3) Where the Federal High Court is seized of an action against the ship-owner or his guarantor for compensation for oil pollution damage, the court shall also have exclusive jurisdiction over any or all actions against the Fund for compensation in respect of the same incident.

(4) The Fund shall have the right to intervene as a party to any legal proceedings instituted in accordance with Article IX of the Liability Convention before the Federal High Court in Nigeria against a ship-owner or his guarantor; provided that the Fund shall not be bound by any judgment or decision arising from a proceedings or settlement in which it is not a party.

(5) Where an action for compensation for pollution damage is instituted against a ship-owner or his guarantor before the Federal High Court, each party to the action is entitled under Nigeria law to notify the Fund of the proceedings and any judgment rendered by the Court in such proceeding shall become binding upon the Fund; provided that the Fund was duly notified in accordance with the relevant rules of Court and had the opportunity to intervene as a party to the proceedings notwithstanding that it did not actually intervene.

34. Any final judgment rendered by the Federal High Court under regulation 33 of these Regulations shall be recognised and enforceable in each Convention State except where—

(a) the judgment was obtained by fraud; or

(b) the defendant was not given reasonable notice and a fair opportunity to present his case.

35. Where the Federal Government of Nigeria or its relevant Agency has paid compensation for pollution damage in accordance with the relevant Nigerian law, it shall acquire by subrogation the rights which the person so compensated would have enjoyed under the Fund Convention.

36. It shall be the duty of any importer or receiver of crude oil to submit to the Minister in respect of each import or receipt, a report of the volume of crude oil and fuel oil so imported or received by such person immediately after carriage by sea into ports, terminal installations and offshore terminals in the territory of Nigeria.

(2) The importer or receiver shall submit annually detailed documentation all crude and fuel oil received or imported for each calendar year.

37. Any person who—

(a) Fails to submit to the Minister, the oil report specified in regulation 36 (1) and (2) of these Regulations;

(b) submits the report later than the prescribed time; or

(c) submits a false oil report,

shall be guilty of an offence and is liable on conviction to a fine not less than ₦100 million.

38. It shall be the duty of the Minister to submit the report received under regulation 36 of these Regulations to the Fund Secretariat.

39. (1) An importer or receiver who in one calendar year received 150,000 tonnes of crude oil or more shall pay to the Fund in such manner and on or before such date as may be prescribed, such sums as may be determined by the Assembly of the Fund Convention and certified by the Director of be Fund.

(2) The sum payable shall be determined in accordance with the report submitted by the Minister under regulation 38 of these Regulations.
(3) If any person fails to pay to the Fund any sum due and payable by him under paragraph (1) of this regulation, the Director of the Fund may recover such sum together with interest thereon as a contract debt; from such person in any court of competent jurisdiction. The interest rate shall be such as may, from time to time, be determined by the Assembly of the Fund Convention.

(4) Any person who fails to make the payment specified in paragraph (1) of this regulation to the Fund, shall be guilty of an offence and is liable to a Fine of ₦50 million.

PART IV — CLAIMS

40. Anyone who has suffered pollution in the territory of Nigeria or any other Convention Country may make a claim for compensation and claimants may be private individuals, partnerships, companies, private organisations or public bodies, including States or Local authorities.

41. (1) All claims shall be submitted to the ship-owner or his Protection and Indemnity Club through the office of the Protection and Indemnity Club’s correspondent closest to the incident location.

(2) Claimants shall notify the Minister.

(3) Claimants who wish to claim directly against the 1992 Fund should submit their claims to the following address:

International Oil Pollution Compensation Fund
Portland House
Stag Place
London SW1E 5PN
United Kingdom
Telephone: +44 (0)20 7592 7100
Telefax: +44 (0)20 7592 7111
E-mail: info@iopefund.org

42. (1) Claims shall be made in writing (including telefax or electronic mail). Where appropriate, the claimant shall collect claims forms from the Protection and Indemnity Club or the Fund to assist in the presentation of claims.

(2) Claims shall be presented clearly and with sufficient information and supporting documentation to enable the amount of the damage to be assessed.

(3) Each item of a claim must be substantiated by an invoice or other relevant supporting documentation, such as work sheets, explanatory notes, accounts and photographs.

43. Each claim should contain the following basic information:

(a) the name and address of the claimant, and of any representative;
(b) the identity of the ship involved in the incident;
(c) the date, place and specific details of the incident, if known to the claimant, unless this information is already available to the 1992 Fund;
(d) the type of pollution damage sustained; and
(e) the amount of compensation claimed,

where appropriate additional information may be required for specific types of claim.

44. (1) Claimant should submit their claims as soon as possible after the damage has occurred. (2) A claimant shall loose the right to compensation except the action is commenced or formal notification is made to the Fund of action against the ship-owner or his insurer within 3 years.

45. In these Regulations, unless the context otherwise requires—

“Act” means the Merchant Shipping Act;

“Civil Liability Convention” means the International Convention on Civil Liability for Oil Pollution Damage, concluded in Brussels on November 29, 1969, as amended by the Protocol concluded in London on November 19, 1976 and the Protocol concluded in London on November 27, 1992 and includes any Convention or Protocol which has been ratified by Nigeria and which amends or extends that Convention;

“Company” means a body incorporated under the laws of the Federal Republic of Nigeria or of any other country;
“Contributing oil” means crude oil and fuel oil as defined a sub-paragraphs (a) and (b) below:
(a) “crude oil” means any liquid hydrocarbon mixture occurring naturally in the earth whether or not treated to render it suitable for transportation and include—
(i) crude oils from which distillate fractions have been removed; and
(ii) crude oils to which distillate fractions have been added;
(b) “fuel oil” means heavy distillates or residues from crude oil or blends of such materials intended for use as a fuel for the production of heat or power of a quality equivalent to the “American Society for Testing and Materials’ Specification for Number Four Fuel Oil (Designation D 396-69), or heavier;

“Convention Country” means, as the context may require a State (other than Nigeria) which has been declared to have accepted the Liability Convention or the Fund Convention or any Convention or Protocol amending or extending those Conventions and which has not been subsequently declared to have denounced either of those Conventions;

“Convention ship” means a seagoing vessel wherever registered—
(a) carrying, in bulk as cargo, crude oil, fuel oil, heavy diesel oil, lubricating oil or any other persistent hydrocarbon mineral oil, or
(b) on a voyage following any such carriage of such oil, unless it proven that there is no residue of the oil on board;

court” or “court of competent jurisdiction” means the Federal High Court or a judge thereof or any Court having particular jurisdiction for the purpose of these Regulations;

“discharge” in relation to—
(a) a pollutant, means any discharge of the pollutant that directly or indirectly results in the pollutant entering the water, and includes spilling, leaking, pumping, pouring, emitting, emptying, throwing and dumping;
(b) oil, means any discharge or escape of oil however caused, while “discharge or escape” in relation to pollution damage, means the discharge or escape of oil from the ship;

“foreign judgment” means a judgment of a Court of a State other than Nigeria that is a party to the Civil Liability Convention;

“Fund Convention Country” means a Country in respect of which the Fund Convention is in force;

“Fund Convention” means the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, done at Brussels on the 18th day of December, 1971, and includes any Convention or Protocol which has been ratified by Nigeria and which amends or extends that Convention;

“Fund” means the International Oil Production Compensation Fund 1992;

“Guarantor” means any person providing insurance or other financial security to cover the liability of the owner of a ship in relation to oil pollution damage;

“importer” means the person by whom or on whose behalf the oil in question is entered for customs or excise purposes on importation, and “import” shall be construed accordingly;

“In bulk” means in a hold or tank that is part of the structure of a ship, without any intermediate form of containment;

“incident” means any occurrence, or series of occurrences having the same origin, resulting in pollution damage or creates a grave and imminent threat causing such damage;

“Judgment creditor” means a person in whose favour a foreign judgment was rendered, and includes the person’s assigns, heirs, executors, liquidators of the succession, administrators and other legal representatives;

“Judgment debtor” means a person against whom a foreign judgment was rendered, and includes a person against whom the foreign judgment is enforceable under the law of the state in which it was rendered;

“Master”, in relation to a ship, means the person having, for the time been, the command or charge of the ship;

“Minister” means the minister charged with responsibility for water transportation;

“Oil” means any persistent hydrocarbon mineral oil such as crude oil, fuel oil, heavy diesel
oil, lubricating oil, sludge, oil refuse and oil mixed with wastes but does not include dredged spoil, whether carried on board a ship as cargo or in the bunkers of such a ship; “Owner” in relation to a ship, means:
(a) the person registered as its owner; or
(b) if no person is registered as owner of the ship, the person who owns the ship, or
(c) in the case of a ship which is owned by a State and is operated by a person who in that State is registered as the ship’s operator, “owner” means the person registered as such operator; or
(d) the person who for the time being, either by law or by contract; has the rights of the owner of the ship with respect to its possession and use;

“Person” means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent subdivision;

“Pollutant” means—
(a) a substance that, if added to waters, would degrade or alter or form part of a process of degradation or alteration of the quality of the waters to an extent that is detrimental to their use by humans or by an animal or plant that is useful to humans; and
(b) any water that contains a substance in such a quantity or concentration, or that has been so treated, processed or changed, by heat or other means, from a natural state that it would, if added to any waters, degrade or alter or form part of a process of degradation or alteration of the quality of the waters to an extent that is detrimental to their use by humans or by an animal or plant that is useful to humans;

“pollution damage” means a loss or damage outside a ship carrying oil in bulk as cargo arising from the escape or discharge of oil from a ship, whenever such escape or discharge may occur, and includes the cost of measures taken to prevent or minimise pollution damage and any further loss or damage caused by such measures, and pollution damage with the State or within any Convention Country includes measures taken outside the State or, as the case may be, such Convention Country to prevent or minimise pollution damage within the State or within that Convention Country;

“Preventive measures” means any reasonable measures taken by any person to prevent or minimize pollution damage, after an incident has occurred;

“ship” means—
(a) a seagoing vessel or seaborne craft of any type, whatsoever constructed or adapted for the carriage of oil in bulk as cargo;
(b) a seagoing vessel or seaborne craft capable of carrying oil and other cargoes that, is for the time being carrying oil in bulk as cargo, or
(c) a seagoing vessel or seaborne craft capable of carrying oil and other cargoes that, following the unloading from it of a cargo of oil, contains residues of oil in those spaces adapted or constructed for the carriage of oil in bulk as cargo;

“Ship’s tonnage” for the purpose of these Regulations shall be the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 of the International Convention on Tonnage Measurement of Ships, 1969;

“State of the ship’s registry” means in relation to registered ships the state of registration of the ship, and in relation to an unregistered ship the state whose flag the ship is flying;

“Terminal installation” means any site in the State for the storage of oil in bulk which is capable of receiving oil from waterborne transportation, and includes any facility situated off-shore and linked to such site.

“Tonne”, in relation to oil, means a metric ton;

“Unit of account” means the unit of account of Special Drawing Rights of the International Monetary Fund.

46. These Regulations may be cited as the Merchant Shipping (Civil Liability for Oil Pollution Damage and Compensation) Regulations 2010.

MADE at Abuja this 9th day of March, 2010.

IBRAHIM ISA BIO
Minister of Transportation
OIL SPILL AND OILY WASTE MANAGEMENT REGULATIONS, 2011
ACT (NO. 15 OF 2006)

OIL SPILL AND OILY WASTE MANAGEMENT REGULATIONS, 2011

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PART 1 — REGULATORY SETTING AND SCOPE OF APPLICATION

1. For ease of monitoring, compliance and enforcement of applicable laws and regulations, the petroleum sector is classified into the upstream, midstream and downstream sub-sectors as follows—
   (i) the upstream sub-sector covers crude oil, condensates and gas exploration and production activities including crude oil terminals;
   (ii) the midstream sub-sector consists of crude oil pipeline transportation, storage, refining and petrochemicals production, liquefied natural gas, and gas conversion, including all processing facilities; and
   (iii) the downstream sub-sector entails petroleum products and natural gas distribution to final consumers involving (marketing operation, jetties, Above Ground Storage Tanks (ASTs), retail outlets, products pipelines and Underground Storage Tanks (USTs) operations.

2. (1) These Regulations apply to on-shore and off-shore petroleum farcicalities in Nigeria and in particular, to facilities which due to their locations can reasonably be expected to discharge oil or oily waste in harmful quantities into or upon the land or navigable waters of Nigeria. These include facilities used for seismic survey, drilling, producing, gathering, storage, processing refining distribution and consuming activities.

   (2) The Regulations contained in PARTS II to IV, PARTS V to VII and PARTS VIII to IX of these Regulations respectively apply to the upstream, midstream and downstream sub-sectors of the petroleum sector.

   (3) Appendix I-I to these Regulation contains explanations on the regulatory and legal framework on the petroleum sector emphasizing the concerns and problems of discharges of oil and oil wastes on land and navigable waters in Nigeria and noting the importance of constantly updating the laws and regulations pertaining to the sector to prevent the damaging effects of oil spills and discharge of oily waste upon land and navigable waters in Nigeria.

PART II — ENVIRONMENTAL MANAGEMENT FOR ONSHORE AND OFFSHORE PETROLEUM EXPLORATION, PRODUCTION AND DEVELOPMENT

3. (1) Appendix 1-2 to these Regulations contains details of exploration, production and development activities in the petroleum sector and the extent of the damage to land and navigable waters in Nigeria of oil spillage and discharge of oily wastes from on-shore and off-shore oil exploration and development activities.

   (2) The Regulations contained in this Part prescribe uniform best environmental management practices for the prevention, control and monitoring of oil spills and oily waste discharges from petroleum exploration and development activities.

   (3) In this Part ‘On-shore’ or ‘Off-shore’ petroleum exploration, production and developments facilities include on-shore and off-shore mobile or portable facilities, such as, on-shore drilling or work over rigs, barge mounted off-shore, off-shore drilling or work over rigs and portable fuelling facilities (hereinafter in this Part referred to as the ‘Facility’ or ‘Facilities’).
4. (1) Owners or operators of Facilities which due to their locations, could reasonably be expected to discharge oil or generate oily wastes into or upon land or navigable waters of Nigeria, shall prepare in written form a Spill Prevention Control and Counter Measures Plan ('SPCCP') and an Oil Spill Contingency Plan ('OSCP') as prescribed in these Regulations and in accordance with specifications contained in Appendices II-I and III-I to these Regulations.

(2) The SPCCP and OSCP shall apply when a Facility is in a fixed operating mode.

5. (1) A mobile or portable Facility shall not be operated unless the SPCCP and OSCP have been approved by the Agency and implemented by the operator.

(2) A completed copy of the approved SPCCP and OSCP shall be maintained at all times at the Facility during operations.

6. Whenever there is a change in Facility design, construction, operation or maintenance, which materially affects the Facility's potential for the discharge of oil or oily wastes into or upon the land and or navigable waters of Nigeria, the owner or operator of the Facility shall amend the SPCCP and OSCP as prescribed in Appendices II-I and III-I to these Regulations.

7. Owners or operators of Facilities shall make provisions to prepare for and prevent the occurrence of oil spills or oily wastes discharges and put in place appropriate measures to respond to oil spills or oily wastes discharges in their areas of operations.

8. (1) The discharge of oil or oily wastes upon land or navigable waters in Nigeria by the owner or operator of a Facility shall be recorded and reported to the Agency within 24 hours by the spiller or Facility owner.

(2) The oil spill or oily wastes discharge report shall be furnished to the Agency in an 'Oil Spill Report Form' in accordance with the specifications contained in Appendix II —2 to these Regulations.

(3) The report shall include such details as the Agency may from time to time prescribe in guidelines issued pursuant to these Regulations.

9. (1) A Joint Investigation Team ("the JIT") comprising of the owner or the operator of spiller Facility, representatives of the affected community, the State Government and the Agency, shall be constituted within 24 hours of the spillage notification to visit the location where the oil spillage or oil discharge occurred to investigate the cause and extent of the spillage.

(2) A report of the findings of the JIT shall be written in the JIV Report Form prescribed by the Agency in the form and specifications contained in Appendix II-3 to these Regulations.

10. (1) Where a spillage of oil or oily waste has occurred, the spilled oil or oily waste shall be removed or cleaned up by the owner or operator of the Facility from which the oil or oily waste is discharged, using the best practicable technology currently available.

(2) The method of cleaning up adopted by the owner or operator of the Facility shall be approved and monitored by the Agency.

(3) The clean-up contractor to be engaged by the owner or operator of the Facility shall be accredited by the Agency.

(4) A report on the clean-up operation shall be in accordance with the specification contained in Forms A, B and C, of Appendix II-2 or on such other forms to these Regulations as the Agency may from time to time prescribe in guidelines.

11. In the case of on-shore or off-shore well blow-out, equipment malfunction or accident resulting in the discharge of oil into or upon land or navigable waters of Nigeria, the owner or operator of the production Facility shall immediately activate the company's SPCCP and OSCP and commence appropriate control and monitoring measures to track the oil movement to prevent potential harmful or dangerous consequences or impact to nearby areas or communities.

12. Owners or operators of on-shore or off-shore mobile or fixed drilling rigs or work-over rigs, oil or gas wells, flow-lines, separation equipment, storage facilities, gathering lines, platforms and auxiliary non-transportation related equipment shall not discharge any well treatment wastes, deck drainage or permit overflow of retention tanks or sump which contain oil or any
of the synthetic based fluids, into or upon land or navigable waters of Nigeria.

13. (1) Wastes from on-shore or off-shore production activities consisting of produced water and oil-based mud or fluids, treatment fluids, oil and water-based drill cuttings, deck drainage shall be treated to achieve oil removal efficiency satisfactory to the Agency.
   (2) The oil recovered from the treatment shall be recycled.

14. Produced water-based mud or fluids, oil-based mud or fluids, water-based drill cuttings, oil-based drill cuttings, deck drainage and well treatment fluids, shall be monitored as set out in Table 1-2 of Regulation 32 of these Regulations, and analyzed to determine the oil content using the laboratory analysis procedures prescribed by the Agency in Appendix II-4 to these Regulations.

15. Produced water-based mud or fluids, oil-based mud or fluids, water-based drill cuttings, oil-based drill cuttings, deck drainage and well treatment fluids, shall be appropriately stored, packaged in skips during production or work-over operation on-shore or off-shore and transported to an approved on-shore Facility for treatment by the best available technology in accordance with the specification contained in Appendix II-5 to these Regulations.

16. Owners or operators of production Facilities from which oil or oily waste are discharged into or upon land or navigable waters of Nigeria are liable for specific damages resulting from the discharged oil, and the removal costs incurred in a manner consistent with the National Oil Spill Contingency Plan.

17. Owners or operators of a Facilities whose activities negatively impact the environment and cause oil spillage, seepage, leakage or discharge oil or oily wastes in medium or major quantities into or upon land, flood plains, swamp, responsible upland, valleys, reservoir or navigable waters of Nigeria shall in the event of such occurrence, clean up the impacted site using the methods set out in Appendix II-5 to these Regulations and shall also furnish to the Agency a mandatory Post Remediation Report in the form and substance contained in Appendix II-6, to these Regulations.

18. (1) Owners or operators of Facilities with potentials of oil spills or oily waste discharges shall regularly carry out oil spill response equipment audit.
   (2) The Agency shall carry out annually OSCP or SPCCP activation drills or exercise to determine Facilities preparedness to handle potential oil spill risk and thereafter provide the owner or operator of the Facility an assessment report.
   (3) Further to the provisions of paragraphs (1) and (2) of this Regulation, the Agency shall, as considered appropriate, conduct periodic inspections of Facilities to ensure adequate stockpile of oil spill response equipment, safety checks and carry out general inspection of the environment in which the Facility is located.

19. Owners or operators of oil exploration and development Facilities that fail to comply with Regulations contained under this Part shall, in addition to meeting the specific obligations required to remedy the breach of any of the these Regulations, be liable to pay the penalties provided for in section 6(2) and (3) of the Act.

PART III — ENVIRONMENTAL MANAGEMENT FOR PRODUCTION OPERATIONS

20. (1) Appendix 1-3 to these Regulations describes production processes in the oil and gas sector to include all on-shore and off-shore activities employed to harness trapped hydrocarbon from the reservoirs, which consist of bored wells, flow-lines, separation equipment, storage facilities, gathering lines, platforms and auxiliary non-transportation related equipment and facilities in a single geographical oil or gas field operated by a single or joint venture. These activities could be on land, swamp, shallow coastal waters, estuary, deep off-shore or ultra deep off-shore waters.
   (2) The Regulations contained in this Part prescribe uniform best practices for the prevention, control and monitoring of oil spills and oily waste discharges in the course of production operations.
   (3) In this Part, oil and gas production facilities include 'on-shore' or 'off-shore' production facilities, including on-shore drilling or work over rigs, mounted oil-shore drilling or work over rigs, oil or gas wells, flow-lines, separation equipment, storage facilities,
gathering lines, platforms and auxiliary non-transportation related equipment such as FPSO, FPS, (hereinafter in this Part referred to as the ‘Facility’ or ‘Facilities’).

21. Owners or operators of oil or gas production Facilities shall ensure that roles, responsibilities and authorities of personnel involved in production operations are well-defined, documented and communicated for effective environmental management practices.

22. (1) Owners or operators of on-shore or off-shore production Facilities shall prepare and have in written form an Oil Spill Contingency Plan (‘OSCP’) and Spill Prevention Control and Counter Measures Plan (‘SPCCP’) in accordance with specifications contained in Appendices II-I AND III-I to these Regulations.
   (2) The SPCCP and OSCP shall apply when the Facility is in a fixed operating mode.

23. (1) A mobile or portable Facility shall not be operated unless the SPCCP and OSCP has been approved by the Agency and implemented by the operator.
   (2) A completed copy of the approved SPCCP and OSCP shall be kept .JI times at a Facility during operations.

24. Whenever there is a change to the design, construction, operation or maintenance of a Facility which materially affects the Facility’s potential for the discharge of oil or oily wastes or waste oil into or upon the land and or navigable waters of Nigeria, owners or operators of the Facility shall amend the SPCC and OSCP as prescribed in Appendices II-I and III-I to these Regulations.

25. (1) Owners or operators of on-shore or off-shore Facilities shall make provisions to prevent the occurrences of oil spills or oily wastes discharges and shall put in place appropriate measures, to respond to oil spills or oily wastes discharges that may occur in the course of production operations.
   (2) In meeting the requirement of paragraph (1) of this Regulation, owners or operators of oil and gas production Facilities, shall provide the appropriate oil spill response equipment with trained personnel and carry out periodic oil spill response exercises.
   (3) Appendix III-2 to these Regulations contains a list of Spill Response Equipment Materials for adoption by owners or operators of Facilities.

26. (1) Any discharge of oil or oily wastes shall be recorded and reported to the Agency within 24 hours by the owner or operator.
   (2) Reports shall be made in an ‘Oil Spill Report Form’ as contained in Oily Wastes. Appendix II-2 to these Regulations and shall include such details as the Agency may prescribe from time to time in guidelines.

27. (1) A Joint Investigation Team (“JIT”) comprising of the owner or operator of the Facility responsible for the oil spill or oily waste discharge, representatives of the affected community, the State Government and the Agency, shall be constituted within 24 hours of notification of the spillage to visit the Facility or the affected area or location to investigate the cause and extent of the spillage.
   (2) A report of the findings of the JIT shall be produced by the Agency on the JIV Report Form as prescribed in Appendix II-3 to these Regulations and endorsed by the JIT.

28. (1) Where a spillage of oil or oily waste has occurred, the spilled oil or oily waste shall be removed or cleaned-up by the owner or operator of the Facility from which the oil or oily waste is discharged, using the best practicable technology depending on the sensitivity of the environment.
   (2) The method of cleaning up adopted by the owner or operator of a Facility shall be approved by the Agency with report Furnished to the Agency.
   (3) The clean-up contractor to be engaged by the Facility owner or operator shall be accredited by the Agency and the clean-up process monitored by the Agency.

29. In the case of on-shore or off-shore well blow-out resulting in the discharge of oil into or upon land or navigable waters of Nigeria, the owner or operator of the blown-out well shall immediately activate the company’s SPCCP and OSCP and commence appropriate control and monitoring measures to track the oil movement to prevent harmful potential impact on nearby or coastal communities.
30. (1) Owners or operators of on-shore or off-shore mobile or fixed drilling rigs or work-over rigs shall not discharge any drilling mud or fluids, spent drill mud or fluids, drill cuttings, well treatment wastes deck drainage, bund-wall content, produced water, effluents, which contain oil or any of the synthetic based fluids, into or upon land or navigable waters of Nigeria.

(2) Appendix III-4 to these Regulations contains the Disposal Plan for Oil Spills and Oily Contaminated Wastes or Materials prescribed by the Agency.

31. (1) Waste from on-shore or off-shore drilling and work-over activities consisting of produced water and oil-based mud and fluids, well treatment fluids, oil and water-based drill cuttings, deck drainage, produced formation water, effluents shall be treated to achieve oil removal efficiency satisfactory to the Agency.

(2) Oil recovered from the treatment shall be recycled.

(3) The acceptable levels of treatment for each category of wastes are as indicated in Table 1-1 below:

Table 1:1 — LIMITATIONS FOR OILY WASTE WATER

<table>
<thead>
<tr>
<th>Characteristics</th>
<th>Compliance Maximum Limits within 30 days Period</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Inland</td>
</tr>
<tr>
<td>Ph</td>
<td>6.5 - 8.5</td>
</tr>
<tr>
<td>Temp. °C</td>
<td></td>
</tr>
<tr>
<td>THC, mg/l</td>
<td>7.0 - 10</td>
</tr>
<tr>
<td>TPH, mg/l</td>
<td>4.5</td>
</tr>
<tr>
<td>TOC, mg/l</td>
<td>6.5</td>
</tr>
<tr>
<td>PAH, mg/l</td>
<td>4.0</td>
</tr>
<tr>
<td>TSS, mg/l</td>
<td></td>
</tr>
<tr>
<td>Turbidity, NTU</td>
<td></td>
</tr>
<tr>
<td>Oil and Grease</td>
<td></td>
</tr>
<tr>
<td>COD, me/l</td>
<td>10 - 40</td>
</tr>
<tr>
<td>BOD, mg/l</td>
<td>10</td>
</tr>
<tr>
<td>BTEX</td>
<td></td>
</tr>
</tbody>
</table>

32. Produced formation water water-based mud or fluids, oil based mud or fluids, water-based drill cuttings, oil-based drill cuttings, deck drainage, effluents, oil and grease including well treatment fluids, shall be monitored as set out in Table 1:2 below and analyzed to determine the oil content using the laboratory analysis procedures prescribed by the Agency in Appendix II – 4 these Regulations.

TABLE 1-2: PARAMETERS FOR MONITORING AND ANALYSING OILY WASTE WATER

<table>
<thead>
<tr>
<th>Parameters</th>
<th>Waste Stream</th>
<th>Ph</th>
<th>Temp °C</th>
<th>COD mg/l</th>
<th>BOD mg/l</th>
<th>Oil &amp; Grease mg/l</th>
<th>TPH mg/l</th>
<th>PAH mg/l</th>
<th>THC mg/l</th>
<th>TOC mg/l</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drilling Mud</td>
<td>6.5-8.5</td>
<td>25-30</td>
<td>10-125</td>
<td>10-125</td>
<td>10g/kg</td>
<td>25</td>
<td>25</td>
<td>50</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Drill Cuttings</td>
<td>6.5-8.5</td>
<td>25-30</td>
<td>10-125</td>
<td>10-125</td>
<td>50g/kg</td>
<td>25</td>
<td>25</td>
<td>50</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Produced Formation Water</td>
<td>6.5 - 8.5</td>
<td>25-30</td>
<td>10-125</td>
<td>10-125</td>
<td>40g/kg</td>
<td>20</td>
<td>20</td>
<td>40</td>
<td>10</td>
<td></td>
</tr>
</tbody>
</table>

Discharge of Mud, Fluids, Well Treatment Wastes, etc on Land or Navigable Waters Prohibited.

Treatment of Oily Waste to Achieve Oil Removal Efficiency.

Monitoring and Analyzing Waste Waters.
33. Water-based mud or fluids, oil-based mud or fluids, water-based drill cuttings, oil-based drill cuttings, and well treatment fluids, shall be appropriately stored, packaged in skips during development drilling or work-over operation, on-shore or off-shore, and transported to an approved on-shore Facility for treatment by the best available technology to prevent the risk of oil spills.

34. Owners or Operators of production Facilities shall ensure that levels of pollution control technology are fully in line with the best practicable control technology currently available, which represents the average of the best existing performances of well-known technologies for the management of pollutants.

35. Table 1-3 below, contains the monitoring requirements for oil spills and oily wastes management in Nigeria.

<table>
<thead>
<tr>
<th>Discharge</th>
<th>Monitoring Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Type</strong></td>
<td><strong>Monitored Parameter</strong></td>
</tr>
<tr>
<td>1. Produced Formation Water</td>
<td>(i) Volume/Discharge Rate</td>
</tr>
<tr>
<td></td>
<td>(ii) Oil and Grease</td>
</tr>
<tr>
<td></td>
<td>(iii) Free Oil</td>
</tr>
<tr>
<td>2. Oily Waste Water</td>
<td>Volume/Discharge Rate</td>
</tr>
<tr>
<td></td>
<td>Physico-Chemical, pH, Temperature, THC COD, BOD5, PAH, TPH</td>
</tr>
<tr>
<td>3. Oil Sludge</td>
<td>(i) Quality/Volume</td>
</tr>
<tr>
<td></td>
<td>(ii) Total Hydrocarbon Current (THC)</td>
</tr>
<tr>
<td>4. Deck and Storm Water Drainage</td>
<td>Volume/Discharge Rate</td>
</tr>
<tr>
<td></td>
<td>Physico-chemical, pH, Temperature, COD, BOD5 TOC</td>
</tr>
</tbody>
</table>
5. Drilling Mud and Drill Cuttings

<table>
<thead>
<tr>
<th>Volume/Discharge Rate</th>
<th>Estimate</th>
<th>During Operation</th>
<th>Minimum Weekly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physico-chemical, pH, Temperature, COD, BOD5, THC, PAH, Oil &amp; Grease, TPH</td>
<td>Grab</td>
<td>During Operation</td>
<td>Monthly Average in mg/l, NTU d °c as appropriate</td>
</tr>
</tbody>
</table>

36. Owners or operators of Facilities from which oil or oily wastes are discharged into or upon land or navigable waters of Nigeria are liable for specific damages resulting from the discharged oil, and the removal costs incurred in a manner consistent with the National Oil Spill Contingency Plan.

37. (1) Owners or operators of any production Facility, whose activities significantly and negatively impact the environment or causes oil seepage, spillage, leakage or discharge or impact with oil or oily wastes in a medium or major quantities into or upon land, flood plains, upland valleys, reservoir or navigable waters of Nigeria, shall clean-up the polluted environment, using the Risk-Based Corrective Action (‘RBCA’) approach approved by the Agency and shall at the end of the clean-up exercise submit a Remediation Report to the Agency using the format contained in Appendix II-6 to these Regulations.

(2) The procedures for the adoption and application of RBCA for remediation of polluted environment, approved by the Agency are as set out in Appendix III-3 to these Regulations.

38. (1) Owners or operators of Facilities with potentials of oil spills or oily waste discharges shall regularly carry out oil spill response equipment audit.

(2) The Agency shall carry out annually OSCP or SPCCP activation drills or exercise to determine Facilities preparedness to handle potential oil spill risk and thereafter provide the owner or operator of the Facility with an assessment report.

(3) Further to the provisions of paragraphs (1) and (2) of this Regulation, the Agency shall, as considered appropriate, conduct periodic inspections of Facilities to ensure adequate stockpile of oil spill response equipment, safety checks and carry out general inspection of the environment in which the Facility is located.

39. Owners or operators of oil production Facilities that fail to comply with the Regulations contained in this Part shall, in addition to the Specific obligations imposed on them, including the obligations to carry out necessary clean-up operations and to furnish reports to the Agency, be liable for the payment of an amount of not less than Five hundred Thousand Naira (₦500,000.00) to the Agency for the account of the Government of the federation for each day the violation continues.

PART IV — ENVIRONMENTAL MANAGEMENT FOR TERMINAL OPERATIONS

40. (1) Appendix 1-4 to these Regulations contains the description of terminal operations and problems of oily wastes and oily wastes discharges in the course of terminal operations.

(2) The Regulations contained under this Part prescribe uniform best Environmental management practices for the prevention, control and the monitoring of oil spills and waste discharges for terminal operations.

(3) In this Part, terminal operations include onshore and offshore mobile or portable facilities, such as onshore water treatment plants, loading systems, storage tanks, equipment for pumping, piping systems, dehydration systems or units and loading vessels, (hereinafter in this Part referred to as Facility or Facilities).

41. (1) Owners or operators of Facilities shall institute comprehensive environmental management practices to contain and bring to acceptable standards unforeseen, identified and unidentified sources of oil spill or oily wastes from terminal operations.
(2) Roles, responsibilities and authorities of personnel responsible for the Facilities shall be defined, documented and communicated for effective Environmental management practices.

42. (1) Owners or operators of Facilities shall prepare and have in written form an Oil Spill Contingency Plan (OSCP) and Spill Prevention Control and Counter measures Plan (SPCCP).

(2) The SPCCP and OSCP shall apply when the Facility is in fixed operating mode.

43. (1) A Facility under this Part shall not be operated unless the Agency to SPCCP and OSCP have been approved by the Agency and implemented by the operator.

(2) A completed copy of the approved SPCCP and OSCP shall be maintained at the Facility at all times during operations.

44. Whenever there is a change to the design, construction, operation or maintenance of a Facility which materially affects the Facility’s potential for the discharge of oil or oily wastes or waste oil into or upon the land and or navigable waters of Nigeria, the owner or operator of the Facility shall amend the SPCCP and OSCP as provided in these Regulations or in guidelines issued SPCCP by the Agency from time to time.

45. (1) Owners or operators of Facilities shall take necessary steps to prevent, prepare for and respond to oil spills or oily wastes discharges that may occur in the course of operations.

(2) In meeting the requirements of paragraph (1) of this regulation owners or operators of Facilities, shall provide the appropriate oil spill response equipment and materials, such as skimmers, boats, booms, dispersants and necessary oil containment apparatus as prescribed in Appendix III-2 to these Regulations.

46. (1) Any discharge of oil or oily wastes shall be recorded and reported to the Agency within 24 hours by owners or operators of oil and gas terminal operations.

(2) The oil spill or oily wastes discharge report referred to in paragraph (1) of this regulation, shall be furnished to the Agency in an ‘Oil Spill Report Form’ in accordance with the provision of Appendix II-2 to these Regulations and in such details as may be prescribed in guidelines issued by the Agency from time to time.

47. (1) A Joint investigation Team (JIT”) Comprising of the owner or operator of the Facility responsible for the discharge of oil or oily wastes, representatives of the community, the State Government and the Agency, shall be constituted within 24 hours of notification of the spill to visit the Facility and investigate the cause and extent of the spillage.

(2) A report of the findings of the JIT shall be produced by the Agency in accordance with the Form contained in Appendix II-3 to these Regulations and endorsed by the JIT.

48. (1) Where a spillage of oil or waste oil has occurred, the spilled oil, oily wastes or sludge front tank farm shall be removed and cleaned-up by the owner or operator of the Facility from which the oil or oily waste is discharged, using the best practicable technology currently available, depending on the sensitivity of the environment.

(2) The method adopted for the clean-up exercise shall be approved by the Agency.

(3) The clean-up contractor to be engaged by the Facility owner or operator shall be accredited by the Agency and the clean-up process monitored by the Agency.

49. In the case of onshore or offshore fire out-break or malfunction of equipment in terminal operations resulting in the discharge of oil or oily wastes into or upon land or navigable waters of Nigeria, the operator of the Facility shall immediately activate the company’s SPCCP and OSCL and commence appropriate control and monitoring measures to track the oil movement or spread of fire to prevent potential harm or danger to nearby areas or coastal communities.
50. (1) Owners or operators of onshore or offshore mobile or fixed terminal Facilities shall not discharge treated wastes, deck drainage, containing oil or any synthetic-based fluids or sludge from tank farm into or upon land or navigable waters of Nigeria.

(2) The method of disposal of oil treated waste shall be a specified in Appendix III-4 to these Regulations.

51. Waste from the Facilities consisting of produced water and oil-based fluids, treated water or fluids, oil and water-based deck drainage shall be treated to achieve oil removal efficiency and the oil recovered from the treatment shall be recycled in accordance with the Agency’s specifications as contained in Appendix III-4 to these Regulations.

52. Storm water from storage tanks’ enclosure and treated produced Storm water or fluids, shall be monitored in accordance with the specifications contained in Table 1-2 of Regulation 32 of these Regulations and analyzed to determine the oil content using the laboratory analysis procedures prescribed by the Agency in Appendix II-4 to these Regulations.

53. Owners or operators of Facilities under this Part from which oil or Liability of oily wastes are discharged into or upon land or navigable waters of Nigeria, are liable for specific damages resulting from the discharged oil and the removal costs incurred in a manner consistent with the National Oil Spill Contingency Plan.

54. (1) The owner or operator of a Facility under this Part whose activities significantly and negatively impact the environment shall cleanup the pollution using the Risk-Based Corrective Action (‘RBCA’) approach and shall submit to the Agency a Post-Remediation Report using the Form contained in Appendix II-6 to these Regulations.

(2) The procedures for the adoption and application of RBCA for remediation of polluted environment shall be in accordance with the procedures by the Agency in Appendix III 3 to these Regulations.

(3) The clean-up contractor to be engaged by the Facility Owner or operator shall be accredited by the Agency and the clean-up process monitored by the Agency.

55. (1) Owners or operators of oil and gas terminals, shall regularly conduct oil spill response equipment audit and activate drills annually to determine preparedness to handle potential oil spill risk.

(2) The Agency shall carry out annually OSCP or SPCCP activation drills or exercise to determine Facilities preparedness to handle potential oil spill risk and thereafter provide the owner or operator of the Facility with an assessment report.

(3) Further to the provisions of paragraphs (1) and (2) of this Regulation, the Agency shall, as considered appropriate, conduct periodic inspections of Facilities to ensure adequate stockpile of oil spill response equipment, safety checks and carry out general inspection of the environment in which the Facility is located.

56. Owners or operators of oil and gas terminals that fail to comply with any of the Regulations contained under this Part shall, in addition to the specific obligations required to remedy the breach of any of the Regulations including the obligations to carry out necessary clean-up operations and to furnish reports to the Agency, be liable for the payment of an amount of not less than Five Hundred Thousand Naira (₦500,000.00) to the Agency for the account of the Government of the Federation for each day the violation continues.

PART V — ENVIRONMENTAL MANAGEMENT FOR REFINERIES AND PETROCHEMICAL PLANTS

57. (1) Appendix I-5 to these Regulations describes the activities of refineries and petrochemical plants in the mid-stream sub-sector of the petroleum industry and how refineries and petrochemical plants operations contribute to the problems of oil spill and discharge of oily wastes on land and navigable waters in Nigeria.
(2) The Regulations contained under this Part prescribe uniform best environmental management practices for the prevention, control and monitoring of oil spills and oil wastes discharges for refineries and petrochemical plants.

(3) In this Part, refineries and petrochemical plants are hereinafter referred to as 'Facility' or 'Facilities'.

58. Owners or operators of refineries or petrochemical plants shall ensure that roles, responsibilities and authorities of personnel responsible for refinery and petrochemical operations are well-defined, documented and communicated to ensure for an effective environmental management practices.

59. Owners or operators of Facilities shall prepare and have in written form a Spill Prevention Control and Counter Measures Plan ('SPCCP') and Oil Spill Contingency Plan ('OSCP') in accordance with specifications contained in Appendices II-1 and III-1 to these Regulations.

60. (1) A Facility shall not carry out any operation unless its OSCP and SPCCP have been prepared and approved by the Agency and implemented the operator.

(2) A completed copy each of the OSCP and SPCCP shall be maintained at the Facility at all times during operations.

61. Whenever there is a change in the design, construction, operation or Changes or maintenance, which materially affects the potential of the Facility to discharge Facility oil or oily wastes into or upon the land and or navigable waters of Nigeria, owners or operators of the Facility shall amend the SPCCP and OSCP in accordance with the requirements of these Regulations.

62. (1) Owners or operators of Facilities shall take necessary measures to prevent, prepare for and respond to oil spills or oily wastes discharges that may occur in the course of operation through adequate monitoring.

(2) In meeting the requirements of paragraph (1) of this regulation, materials used in the construction, maintenance, repairs of Facilities must pass through stress test.

(3) All storage tanks bound walls are to be laden with leak-proof materials, of high standard and capable of accommodating 110% content of product without a spill over.

63. (1) Any leakage, spill or discharge of oil or oily wastes shall be recorded and reported to the Agency within 24 hours.

(2) The oil spill or oily wastes discharge report shall be furnished to the Agency using the 'Oil Spill Report Form' in the form contained in Appendix II-2 to these Regulations and in such details as may be prescribed from time to time in guidelines issued by the Agency.

64. (1) A Joint Investigation Team (JIT) comprising of the owner or operator of the Facility responsible for the discharge or spillage, a representative into the of the community, State Government representative and the Agency, shall be constituted within 24 hours of oil spill notification to visit the Facility and investigate the cause and extent of the spillage.

(2) A report of the findings of the JIT shall be produced by the Agency on the JIV Report Form as prescribed in the form contained in Appendix II-3 to these Regulations and endorsed by the JIT.

65. (1) Where a leakage, seepage, discharge or spillage of oil or oily waste has occurred, the spilled oil or oily waste shall be removed or cleaned-up, by the owner or operator of the Facility from which the oil or oily waste is discharged, using the best practicable technology available.

(2) The clean-up method adopted shall be approved by the Agency.

(3) The clean-up contractor to be engaged by the Facility owner or operator shall be accredited by the Agency and the clean-up process monitored by the Agency.

66. In the case of leakage, seepage, discharge or spillage due to rupture, corrosion, third party interference, tank overflow or malfunction of equipment in refining operations resulting in the discharge of oil or oily waste into or upon land or navigable waters of Nigeria, the
operator of the Facility shall immediately activate the company’s SPCCP and OSCP and commence appropriate, clean-up and monitoring measures to track the oil or material movement or spread of fire as may arise, to prevent potential harmful or dangerous impact to nearby facilities, communities or coastal areas.

67. (1) Owners or operators of Facilities shall not discharge treated effluent wastes, off-spec products, oily wastes, oily or organic sludge, spent catalyst, storm water, surface drainage, containing oil into or upon land or navigable waters of Nigeria.

(2) Appendix III-4 to these Regulations contain the Disposal Plan for Oil Spills and Oily contaminated wastes and materials approved by the Agency for compliance by owners and operators of Facilities under this Part.

68. Waste from operations of Facilities consisting of oily contaminated solid wastes, spent catalyst, storm waters, surface drainages or off-spec products shall be treated to achieve oil removal efficiency satisfactory to the Agency and recovered oil from the treatment shall be recycled.

69. Spent catalyst, sludge, off-spec product, storm-water, surface drainage, oily contaminated solid wastes and treated process water, shall be monitored in accordance with the specifications contained in Table 1-2 of Regulation 32 of these Regulations arid analyzed to determine the oil content using the laboratory analysis procedures as set out in Appendix II-4 to these Regulations.

70. (1) Spent catalyst, oil contaminated solid wastes, off-spec products, sludge, storm water, surface drainage and treated waters and fluids shall be appropriately stored in containers for the purpose of treatment by the best current available technology to prevent the risk of oil spill or pollution of the environment prior to using the disposal method as may be approved by the Agency.

(2) Table 1-1 set out in Regulation 31 of these Regulations contains the acceptable levels of treatment for each category of oil waste water.

71. Owners or operators of Facilities from which oil or oily wastes are discharged into or upon land or navigable waters of Nigeria, are liable for Owners or specific damages resulting from the discharged oil and the removal costs incurred in a manner consistent with the National Oil Spill Contingency Plan.

72. (1) Owners or operators of any Facility whose operations significantly and negatively impact on the environment or cause oil seepage, operations spillage, leakage or discharge or impact with oil or oily wastes in any minor, significant or major proportion into or upon land, flood plains, upland valleys, reservoir or navigable waters of Nigeria, shall clean up the polluted environment using the Risk-Based Corrective Action (RBCA) approach as contained in Appendix III-3 to these Regulations, and shall submit to the Agency a Post Remediation Report in the form contained in Appendix II-6 to these Regulations.

(2) The Agency shall from time to time draw up and approve RBCA guidelines and procedures for adoption and application for remediation of oil polluted environment.

73. (1) Owners or operators of Facilities with potentials for oil spills or Oil Spill oily waste discharges shall regularly conduct oil spill response and fire fighting equipment audit.

(2) The Agency shall carry out annually OSCP or SPCCP activation drills or exercise to determine Facilities preparedness to handle potential oil spill risk and thereafter provide the owner or operator of the Facility with an assessment report.

(3) Further to the provisions of paragraphs (1) and (2) of this regulation, the Agency shall, as considered appropriate, conduct periodic inspections of Facilities to ensure adequate stockpile of oil spill response equipment, safety checks and carry out general inspection of the environment in which the Facility is located.

74 Owners or operators of facilities that fail to comply with any of the Regulations contained under this Part shall, in addition to the specific obligations imposed on them, including the obligations to carry out necessary clean-up operations of the areas of impact and to furnish...
reports to the Agency, to be liable for the payment of an amount of not less than Five
Hundred Thousand Naira (₦500,000.00) to the Agency for the account of the Government
of the Federation for each day the violation continues.

PART VI — ENVIRONMENTAL MANAGEMENT FOR BLENDING PLANTS

75. (1) The activities involved in blending Plants operations and the oil spills and discharges
from their operations are contained in Appendix 1-6 to these regulations.

(2) The Regulations contained under this Part prescribe uniform best environmental
management practices for the prevention, control and monitoring of oil spills and
waste discharges in activities and processes of blending plants.

(3) In this Part, blending plants include facilities, such as retention pits, bund-walls, bulk
storage tanks, treatment units, pipelines, and portable fuelling or loading facilities
(hereinafter in this Part, referred to as Facility’ or ‘Facilities’).

76. (1) Owners or operators of Facilities tinder this Part, shall prepare and have in written form
SPCCP and OSCP in accordance with the requirements of these Regulations and guidelines
issued from the time to time by the Agency.

(2) The SPCCP and OSCP shall be prepared in accordance with the specifications
contained in Appendices II-1 and III-1 to these Regulations shall apply when a Facility
is in operation.

77. (1) A Facility shall not operate unless the SPCCP and OSCP has been approved by the
Agency and implemented by the operator.

(2) A completed copy of the SPCCP or OSCP shall be maintained at the facility at all
times during operations.

78. Whenever there is a change in the design, construction, operation or maintenance schedule
of a Facility under this Part which materially affects the Facility's potential for the discharge
of oil or oily wastes or waste oil into or upon the land, flood plains, upland valleys, reservoir
and navigable waters of Nigeria, owners or operators of Facilities shall amend the SPCCP and
OSCP as provided in these Regulations or guidelines issued by the Agency from time to time.

79. (1) Owners or operators of Facilities shall take all necessary measures to prepare for and
prevent the occurrence of oil waste discharges and shall put in place appropriate measures
to respond to oil spills or oily waste discharges in their areas of operation.

(2) Owners or operators of Facilities shall comply with the provisions of Appendix II-1
to these Regulations.

80. (1) Any discharge of oil or oily wastes shall be recorded and reported by the owners or
operators of Facilities to the Agency within 24 hours on the Oil Spill response forms
contained in Appendix II-2 to these Regulations.

(2) The Agency may from time to time specify other information to be included in the reports
referred to in paragraph (1) above in guidelines issued pursuant to these Regulations.

81. A Joint Investigation Team (‘JIT’) comprising of the owner or operator of the Facility
responsible for the oil spill or discharge, representatives of the community, State Government
and the Agency shall be constituted within 24 hours of the oil spill notification to visit and
investigate the cause and extent of the spillage.

82. (1) Where a spillage of oil or oily waste has occurred, the spilled oil or oily waste shall be removed
and cleaned-up by the owner or operator of the Facilities from which the oil or oily waste is
discharged, using the best practicable technology available, to the satisfaction of the Agency.

(2) The clean-up contractor to be engaged by the owner or operator of the facility shall
be accredited by the Agency.
(3) A report on the clean-up operation in the form contained in Forms 'A', 'B' and 'C' of Appendix II-2 to these Regulations shall be furnished to the Agency.

83. In the case of fire out-break, equipment malfunction or accident at a Facility resulting in the seepage, spillage or discharge of oil into or upon land, flood plains, upland valleys, reservoir and navigable waters of Nigeria, the operator of the Facility shall immediately activate the company's SPCCP and commence appropriate control and monitoring measures to track the discharge to prevent potential negative impact on nearby communities and the environment.

84. (1) Owners or operators of Facilities, including base oil or additives storage tanks, equipment for processing cooling water, spent catalyst, organic sludge, run-offs, separation equipment, gathering lines, and auxiliary non-transportation related equipment, shall not discharge any treated wastes into drainage or permit overflow of retention tanks bund-walls, containing oil into or upon land, flood plains, swamp, upland valleys, reservoir and navigable waters of Nigeria.

(2) Appendix III-4 of these Regulations contains provisions for the disposal of oily contaminated wastes or materials.

85. (1) Waste from Facilities consisting of organic sludge, grease, spent water and oily solids, treatment fluids, storm or drainage water or runoff from process area shall be treated with the best available technology to achieve oil removal efficiency.

(2) Table I-1 of Regulation 31 of these Regulations sets out the acceptable levels of treatment for each category of wastes.

86. Process water effluent, organic sludge, grease, spent catalyst, oily solid waste, storm or drainage oily water and treatment fluids shall be monitored as set out in Table I-2 of Regulation 32 of these Regulations and analyzed to determine the oil content using the laboratory analysis procedures provided in Appendix II-4 to these Regulations.

87. Owners or operators of Facilities from which oil or oily wastes are discharged into or upon land, flood plains, upland, valleys, reservoirs and or navigable waters of Nigeria, are liable for specific damages resulting from the Discharge oil, and the removal costs incurred in a manner consistent with the National Oil Spill Contingency Plan.

88. (1) The owner or operator of Facilities shall clean-up the impacted site resulting from the oil spill or discharge of oily substances or materials and shall submit a Post Remediation Report to the Agency in the form contained in Appendix II-6 to these Regulations.

(2) The Agency shall monitor all clean-up and remediation process.

89. The Risk-Based Corrective Action ('RBCA') approach shall be used to mediate oil-polluted sites in accordance with the procedures for adopting standard application of RBCA as prescribed by the Agency in Appendix III-3 to these Regulations.

90. (1) Owners or operators of Facilities with potentials for oil spills and oily waste discharges shall regularly conduct oil spill response and fire fighting equipment audit.

(2) The Agency shall carry out annually OSCP or SPCCP activation drills or exercise to determine Facilities preparedness to handle potential oil spill risk and thereafter provide the owner or operator of the Facility with an assessment report.

(3) Further to the provisions of paragraphs (1) and (2) of this regulation, the Agency shall, as considered appropriate, conduct periodic inspections of Facilities to ensure adequate stockpile of oil spill response equipment, safety checks and carry out general inspection of the environment in which the Facility is located.

91. Owners or operators of Facilities shall provide appropriate safety measures to safeguard workers and Facilities inspection team from injury that Workers and may occur as result of oil spill or oily waste discharges, including other operational accidents or incidents.

92. Owners or operators of Facilities under this Part shall provide for the integrity of Facilities by ensuring that materials used for the construction of the Facilities meet standard specifications, in addition to ensuring that alarms, pressure valves and devices including Tracking of Oil Movement to Prevent Negative Impact on Surrounding Communities.

Discharge of Treated Waste etc on Land or Navigable Waters Prohibited.

Treatment of Oily Waste, etc to Achieve Oil Removal Efficiency.

Monitoring of Process Water Effluent, Oily Solid Waste, etc.

Liability of Owners or Operators of Facilities for the Discharge of Oil or Oily Waste, etc.

Post-Remediation Report.

Risk-Based Corrective Action.

Oil Spill Equipment Audit and Annual Activation of Drills.

Safety of Workers and Facility Inspection Team.

Standard Materials to be used for Construction of Facilities and Safety Devices to be Provided for.
other safeguards are installed in the of Facilities.

93. Owners or operators of Facilities that fail to comply with any of the Regulations contained under this Part shall, in addition to the specific obligations imposed on them, including the obligation to carry out necessary clean-up operation of the areas of impact and to furnish reports to the Agency, be liable for the payment of an amount of not less than Five Hundred Thousand Naira (₦500,000.00) to the Agency for the account of the Government of the Federation for each day the violation continues.

PART VII — ENVIRONMENTAL MANAGEMENT FOR OIL AND GAS TRANSPORTATION

94. (1) The processes and activities involved in oil and gas transportation and problems of oil spillage and discharges oily wastes connected with the transportation processes are contained in Appendix 1-7 to these Regulations.

(2) The Regulations contained under this Part prescribe uniform best practices for the prevention, control and monitoring of oil spills and Oil waste discharges in connection with oil and gas transportation.

(3) In this Part, oil and gas transportation facilities include fixed, mobile or portable facilities, such as oil and gas pipelines, loading systems, storage tanks, equipment for pumping, barges, rail-wagons, flow-lines, boats, SBMs, floating hoses, ships, tankers and loading vessels (hereinafter in this Part referred to as the Facility’ or ‘Facilities’).

95. Owners or operators of Facilities shall prepare Spill Prevention Control and Counter Measures Plan (SPCCP) in accordance with specification contained in Appendix II-1 to these Regulations.

96. (1) A Facility shall not carry out any operation unless the SPCCP has been approved by the Agency and implemented by the operator.

(2) A completed copy of the SPCCP shall be maintained at the Facility at all times during operations.

97. Owners or operators of Facilities shall ensure that roles, responsibilities and authorities of personnel to operate Facilities are well defined documented and communicated for effective environmental management practices.

98. Whenever there is a change in the design, operation or maintenance a Facility, which materially or physically affects the potential for the discharge of oil or oily wastes, into or upon land, flood plains, swamp, upland valleys, reservoir and or navigable waters of Nigeria, owners or operators of the Facility shall amend the SPCCP in accordance with the requirements of these Regulations or guidelines issued by the Agency from time to time.

99. (1) Owners or operators of Facilities of fixed, mobile or portable configuration shall take steps to prevent, prepare for or respond to oil spills or oily wastes discharges that occur in the course of transportation.

(2) In meeting the requirement of paragraph (1) of this regulation, owners or operators of Facilities shall provide necessary accessories and equipment as prescribed by the Agency in Appendix III-2 to these Regulations.

100. Owners or operators of the Facilities shall not discharge effluent treated wastes, ballast water, oily wastes, oily or organic sludge, and storm water, surface drainage, containing oil into or upon land, flood plains, swamp, upland valleys, reservoirs and navigable waters of Nigeria.

101. (1) Any leakage, spill or discharge of oil or oily wastes shall be recorded and reported to the Agency within 24 hours.

(2) The oil spill or oily wastes discharge report shall be made in an ‘Oil Spill Report Form’ as prescribed in Appendix II-2 to these Regulations and in such details as the Agency may specify in guidelines issued from time to time.
102. (1) A Joint Investigation Team (‘JIT’) comprising of the owner or operator of the Facility responsible for the oil spill or discharge, representatives of the community, the State Government and the Agency, shall be constituted within 24 hours of oil spill notification to visit the location of the discharge of oil or oily wastes and investigate the cause and extent of the spillage.

(2) A report of the findings of the JIT shall be written on the prescribed JIV Form contained in Appendix II-3 to these Regulations.

103. (1) Where a leakage, seepage, discharge or spillage of oil or waste oil has occurred, the spilled oil or oily waste shall be removed or cleaned up, by the owner or operator of the Facility from which the oil or oily waste is discharged, using the best practicable available technology depending on the sensitivity of the environment.

(2) The Agency shall approve the clean-up method adopted by owners and operators of the Facility and monitor the clean-up process.

104. In the event of leakage, seepage, discharge or spillage due to rupture, corrosion, third party interference, tanker collision or accident or malfunction of equipment resulting in the discharge of oil or oily waste into or upon land, flood plains, swamp, upland valleys, reservoirs and navigable waters of Nigeria, the operator of the Facility shall immediately activate the company’s SPCCP and commence appropriate control, clean-up and monitoring measures to track the oil or material movement or spread of fire to prevent potential negative impact to nearby communities.

105. (1) Wastes from oil and gas transportation activities consisting of cleaning water, effluents, ballast water, oily waste, oily or organic sludge, storm water and surface drainage, containing oil shall be treated to achieve oil removal efficiency satisfactory to the Agency.

(2) Oil recovered from the treatment shall be recycled or disposed in the manner prescribed in Appendix III-4 to these Regulations.

106. Ballast water sludge, cleaning water, storm water, surface drainage, oily contaminated solid wastes and treated water shall be monitored in accordance with the specifications contained in Tables 1 and 2 of regulation 31 of these Regulations and analyzed to determine the oil content using the laboratory analysis procedures contained in Appendix II-4 to these Regulations.

107. Ballast water, oil contaminated solid wastes, sludge, storm water, surface drainage and treated effluent waters shall be appropriately stored using the best available technology to prevent the risk of oil spill or pollution of the environment before treatment or disposal.

108. Owners or operators of Facilities from which oil or oily wastes are charged into or upon land, flood plains, Swamp, upland valleys, reservoirs and navigable waters of Nigeria, are liable for specific damages resulting discharged oil and the removal costs incurred in a manner consistent with the National Oil Spill Contingency Plan.

109. (1) The owners or operators of Facilities shall clean up the impacted site using the Risk-Based Corrective Action (RBCA) approach and shall in addition submit a Post Remediation Report to the Agency on the prescribed Form in Appendix II-6 to these Regulations.

(2) Appendix III-3 to these Regulations sets out the procedures for adoption and application of RBCA approved by the Agency for remediation of oil-polluted environment.

110. Owners or operators of Facilities with potentials for oil spills or oily waste discharges shall, regularly conduct annual audit of their Facilities to determine preparedness to handle potential oil spill risks and submit reports to the Agency in such details and intervals as the Agency may prescribe by guidelines.

111. Owners or operators of Facilities shall provide appropriate safety measure using the best available materials as prescribed in international codes of practice to safeguard workers and Facility inspection teams from injury due to oil spill and oily waste discharges or malfunction of equipment.
112. To ensure the integrity of crude oil or products conveyed in pipelines, operators or owners of Facilities shall ensure that materials used for the construction of the Facilities meet the prescribed international standard with provision made for the installation of alarms, pressure valves and other such devices which are common and standard features of Facilities in the oil and gas transportation sector.

113. Owners or operators of Facilities that fail to comply with any of the Regulations contained under this Part shall, in addition to the specific obligation imposed, including obligation to carry out necessary clean-up operation of the areas of impact and to furnish reports to the Agency, be liable for the payment of an amount of not less than Five Hundred Thousand Naira ($500,000.00) to the Agency for the account of the Government of the Federation for each day violation continues.

PART VIII — ENVIRONMENTAL MANAGEMENT FOR OIL AND GAS DEPOTS OR TANK FARMS

114. (1) Description of activities on the operations oil and gas depots and tank farms and the operational problems associated with their operations are contained in Appendix I-8 to these Regulations.

(2) The Regulations contained under this Part are aimed at prescribing uniform best environmental management for the prevention, control and monitoring of oil spills and oily waste discharges from oil and gas depots or tank farms.

(3) In this Part, oil and gas depots or tank farms include fixed facilities, such as oil and gas storage tanks and associated facilities such as loading systems, loading trucks, loading arms, equipment for pumping, tankers, barges, Overhead or Underground Storage Tanks (USTs), pipelines (hereinafter in this Part, referred to as the ‘Facility’ or ‘Facilities’).

115. Owners or operators of Facilities under this Part shall prepare and have in written form a Spill Prevention Control and Counter Measures Plan (‘SPCCP’) or Oil Spill Contingency Plan (‘OSCP’) in accordance with the specifications contained in Appendices II-1 and III-I to these Regulations.

116. (1) The SPCCP or OSCP for a Facility shall not operate unless the SPCCP or OSCP has been approved by the Agency and implemented by the operator.

(2) A copy of the SPCCP or OSCP shall be maintained at Facilities at all times during operation.

117. Owners or operators of Facilities shall ensure that roles, responsibilities and authorities of personnel responsible for operating the Facilities are well defined, documented and communicated for effective environmental management practices.

118. Whenever there is a change in a Facility design, or maintenance schedule, which materially or physically affects the potential or to cause the discharge of oil or oily wastes or waste oil into or upon land, flood plains, swamp, upland valleys, reservoir and navigable waters of Nigeria, owners or operators of the Facilities shall amend the SPCCP or OSCP in accordance with the provision of these Regulations and guidelines issued by the Agency from time to time.

119. (1) Owners or operators of Facilities shall take steps to prevent, prepare for or respond to oil spills or oily wastes discharges that may occur in their operational area.

(2) In meeting the requirements of paragraph (1) of this regulation, owners or operators of Facilities shall provide bund walls, stress concrete tanks, double-walled metal tanks, cathodic-protected lined pipes, booms and absorbents, control pressure valves, regulators and other relevant control materials and devices.

120. (1) Any leakage, spillage or discharge of oil or oily wastes from a Facility shall be recorded and reported to the Agency within 24 hours of occurrence.

(2) The report on the oil spill or oily wastes discharge shall be furnished to the Agency on the ‘Oil Spill Report Form’ on the forms contained in Appendix II-2 to these Regulations.
121. (1) A Joint Investigation Team ("JIT") comprising the owner or operator of the Facility responsible for the spillage, a representative of the community, State Government representative and the Agency, shall be constituted within 24 hours of oil spill notification to visit and investigate the cause and extent of the spillage.

(2) A report of the findings shall be written as prescribed in the JIV Form contained in Appendix II-3 to these Regulations.

122. (1) Where a leakage, seepage, discharge or spillage of oil or waste oil has occurred, the spilled oil or waste oil shall be removed and cleaned up by the owner or operator of the Facility from which the oil or oily waste is discharged, using the best practicable technology depending on the sensitivity of the environment.

(2) The clean-up method adopted by owner or operator of the Facility shall be approved by the Agency and the clean-up process shall be monitored by the Agency.

123. In the case of leakage, seepage, discharge or spillage due to rupture, corrosion, third party interference, tanker collision or accident or malfunction of equipment resulting in the discharge of oil or oily waste into or upon land flood plains, swamp, upland valleys, reservoirs and navigable waters of Nigeria, the operator of the Facility shall immediately activate the company’s SPCCP or OSCP and commence appropriate control, clean-up and monitoring measures to track the oil or material movement or spread of fire to prevent potential harmful and negative impact on nearby infrastructure and human settlement.

124. Owners or operators of Facilities shall not discharge any treated effluent wastes, drainage oily water or sludge, oily wastes, oily or organic sludge, containing oil, into or upon land, flood plains, swamp, upland valleys, reservoirs and navigable waters of Nigeria.

125. (1) Wastes from Facility consisting of cleaning water, effluents, oily wastes, oily or organic sludge, storm water and surface drainage, containing oil shall be treated to achieve oil removal efficiency satisfactory to the Agency and in accordance with specifications provided by the Agency.

(2) The oil recovered from the treatment shall be recycled.

(3) Table III-1 of Regulation 31 of these Regulations contains the acceptable levels of treatment for each category of wastes prescribed by the Agency.

126. Oily sludge, cleaning water, storm water, surface drainage, oily contaminated solid wastes and treated effluent water, shall be monitored in accordance with the specifications contained in Table II-2 of Regulation 32 of these Regulations and analyzed to determine the oil content using the laboratory analysis procedures set out in Appendix II-4 to these Regulations.

127. (1) Oil contaminated solid wastes, sludge, storm water, surface drainage and treated effluent waters, shall be appropriately stored and transported to an integral depot Facility for treatment by the best available technology to prevent the risk of oil spill or pollution of the environment.

(2) Appendix III-4 to these Regulations contains the disposal plan for oil spills and oily contaminated wastes or materials.

128. Owners or operators of Facility from which oil spills or oily wastes are discharged into or upon land, flood plains, swamp, upland valleys, reservoirs and navigable waters of Nigeria, are liable for specific damages resulting from the discharged oil, and the removal costs incurred in a manner consistent with the National Oil Spill Contingency Plan.

129. (1) Owners or operators of Facilities shall, in carrying out any clearing up or clean-up of the polluted areas, use the Risk-Based Corrective Action (RBCA) approach and submit a mandatory Post Remediation Report to the Agency in the form and substance contained Appendix II-6 to these Regulations.

(2) The procedures for the adoption and application of RBCA for remediation of polluted environment, approved by the Agency, are contained in Appendix III-3 to these Regulations.
130. (1) Owners or operators of Facilities with potentials for oil spills or oily waste discharges, shall regularly conduct oil spill response and fire fighting equipment audit and carry out drill exercises annually to ensure preparedness to handle potential oil spill risks.

(2) Owners or operators of Facilities shall furnish reports to the Agency on the audit and drill exercise carried out in such form and details the Agency require.

131. Owners or operators of Facilities shall provide appropriate safety measures to safeguard workers and Facility inspection learns from harm due oil spill and oily waste discharges and of equipment malfunctioning.

132. Operators or owners of Facilities that fail to comply with any of the Regulations under this Part shall, in addition to the specific obligations imposed in this Part, including the obligation to clean up and furnish reports to the Agency, pay an amount of not less than Five hundred Thousand Naira to the Agency for the account of the Government of the Federation for each day the contravention continues.

PART IX — ENVIRONMENTAL MANAGEMENT FOR RETAILS OUTLETS AND ASSOCIATED FACILITIES

133. (1) The operations of retail outlets and associated facilities operations and problems of oil spills and oily discharges during operations are contained in Appendix I-8 to these Regulations.

(2) The Regulations contained under this Part, prescribe uniform best environmental management for the prevention, control and monitoring of oil spills and oily waste discharges in the course of retail outlets and associated facilities’ operations.

(3) In this Part, retail outlets and associated activities include oil and gas storage or pumping systems, petroleum product loading or dispensing trucks, hoses equipment for dispensing products, cars, jerry cans, surface or underground storage tanks, pipelines mechanic workshop or car wash (hereinafter in this Part referred to as the 'Facility' or 'Facilities').

134. Owners or operators of Facilities shall prepare a Spill Prevention Control Counter Measures Plan (SPCCP) in writing prescribed by the Agency in the form contained in Appendix II-1 to these Regulations.

135. (1) The SPCCP for the Facilities shall apply at all times and a Facility shall not operate unless the SPCCP has been approved by the Agency and implemented by the operator.

(2) A copy of the SPCCP shall be maintained at the Facility at all times during operations.

136. Owners or operators of Facilities under this Part, including mechanic workshops or car wash, USTs, loading or dispensing arms, shall ensure that roles, responsibilities and authorities of personnel responsible for carrying out the operations of the Facilities are well defined, documented and communicated for effective environmental management.

137. Whenever there is a change in the design construction operation or maintenance schedule of a Facility, which physically or materially affects the potential to cause the discharge of oil or oily wastes into or upon land, flood plains, swamp, upland valleys, reservoirs and navigable waters of Nigeria, owners or operators of such Facilities shall amend the SPCCP as set out in Appendix III-1 to these Regulations.

138. (1) Owners or operator of Facilities under this Part including mechanic workshops or car wash, shall take steps to prevent and respond to oil spills or oily wastes discharges that occur in their operational areas.

(2) In meeting the requirements of paragraph (1) of this regulation, owners and operators of the Facilities shall ensure that Underground Storage Tanks (USTs) are lined with impermeable materials, spacious enough to contain products without allowing an overflow or seepage and also ensure that the tanks are double-walled.

(3) USTs shall be routinely monitored by the Agency to ascertain the integrity of in-built cathodic protection systems.
139. (1) Any leakage, spillage or discharge of oil or oily wastes from Oil Facilities under this Part shall be recorded and reported to the Agency within 24 hours.

(2) The report shall be furnished to the Agency in the 'Oil Spill Report Form' contained in Appendix II-2 and providing such details as the Agency may from time to time prescribe in guidelines.

140. (1) A Joint investigation Team (‘JIT’) comprising of the owner or operator of Facility shall be constituted within 24 hours of spill notification to visit and investigate the cause and extent of the spillage.

(2) A report of the findings of the JIT shall be written on the JIT Report Form as contained in Appendix II-3 to these Regulations.

141. (1) Where a leakage, seepage, discharge or spillage of oil or waste oil has occurred, the spilled oil or waste oil shall be removed or cleaned up by the owners or operators of the Facilities using the Best Available Technology (BAT) approved by the Agency depending on the sensitivity of the environment.

(2) The Agency shall also monitor the clean-up process.

142. (1) Owners or operators of Facilities under this Part shall seek approval from the Agency on the design specifications for the construction of all new USTs in the country.

(2) Existing USTs are to the monitored to ensure conformity with the approved design specifications as soon as such Facilities are due for integrity rest.

143. In the case of leakage, seepage, discharge or spillage due to rupture, corrosion, third party interference, truck collision or accident or malfunction of equipment resulting in the discharge of oil or oily waste into or upon land, flood plains, swamp, upland valleys, reservoirs and navigable waters of Nigeria, the operator of the Facility shall immediately activate the company's SPCCP and commence appropriate control, clean-up and monitoring measures, to track the oil or material movement or spread of fire to prevent potential impact on nearby infrastructure and human settlement.

144. (1) Owners or operators of Facilities shall not discharge treated effluent waste, drainage oily water or sludge, oily wastes, oily or organic sludge, containing oil into or upon land, flood plains, swamp, upland valleys, reservoirs and navigable waters of Nigeria.

(2) The acceptable levels of treatment and disposal for each category of as are as prescribed in Table 1-1 of Regulation 31 and Appendix III-4 to Regulations.

145. (1) Wastes from Facilities under this Part consisting of cleaning water, effluents, oily wastes, oily or organic sludge, and storm water, surface drainage, containing oil shall be treated to achieve oil removal efficiency satisfactory to the Agency and in accordance with specifications prescribed by the Agency.

(2) Oil recovered from the treatment shall be recycled.

(3) Oily sludge, cleaning water, storm water, surface drainage, oily contaminated solid wastes and treated waste water, shall be analyzed to determine the oil content using the laboratory analysis procedures provided in Appendix II-4 to these Regulations.

146. Oil contaminated solid wastes, sludge, storm water, surface drainage and treated waste waters, shall be appropriately stored and transported to a properly constructed integral depot facility for treatment using the best available technology to prevent the risk of oil spill and negative impact on the environment before disposal.

147. Owners or operators of Facilities from which oil spills or oily wastes are discharged into or upon land, flood plains, swamp, upland valleys, reservoirs and navigable waters of Nigeria are liable for specific damages resulting from the discharged oil, and the removal costs incurred in a manner consistent with the National Oil Spill Contingency Plan.
148. (1) Owners or operators of Facilities shall clean up the polluted area using the Risk-Based Corrective Action ('RBCA') approach and shall submit a mandatory Post Remediation Report to the Agency.

(2) The procedures for adoption and application of RBCA for remediation of impacted locations, as approved by the Agency, are contained in Appendix II-3 to these Regulations.

149. (1) Owners or operators of Facility with potentials for oil spills or oily waste discharges shall regularly conduct oil spill response and fire fighting equipment audit.

(2) The Agency shall carry out annually OSCP or SPCCP activation drills or exercise to determine Facilities preparedness to handle potential oil spill risk and thereafter provide the owner or operator of the Facility with an assessment report.

(3) Further to the provisions of paragraphs (1) and (2) of this regulation, the Agency shall, as considered appropriate, conduct periodic inspections of Facilities to ensure adequate stockpile of oil spill response equipment safety checks and carry out general inspection of the environment in which the Facility is located.

150. Owners or operators of Facilities shall provide appropriate safety measures to safeguard workers and Facility inspection team, from harm due to oil spill and oily waste discharges and malfunctioning of equipment.

151. Owners or operators of oil and gas retail outlets who fail to comply with the Regulations contained under this Part shall, in addition to the specific obligations and responsibilities imposed under this Part, including the obligation to clean up and furnish report to the Agency, be liable to pay an amount of not less than Five Hundred Thousand Naira (₦500,000.00) to the Agency for account of the Government of the Federation for each day the contravention continues.

PART X — MISCELLANEOUS PROVISIONS

152. The Agency may, from time to time, amend the provisions of these Regulations by notice in the Official Gazette.

153. The Agency may issue guidelines to provide clarifications as may be required on the provisions of these Regulations.

154. In these Regulations—
   “Act” means the National Oil Spill Detection and Response Agency Act
   “Facility Inspection” includes audit of oil spill response equipment, safety checks and general inspection of the environment within which the Facility is located.
   “Government of the Federation” include the Federal, States, and Local Governments of the Federal Republic of Nigeria.
   “guidelines” include any instruction or administrative clarification as may be issued from time to time for the proper implementation of the provision of these Regulations.
   “Minister” means the Minister charged with the responsibility for matters pertaining to the environment.
   “Oil Spill Drill” means a practice of what to do in an oil spill emergency which may not necessarily involve the deployment of equipment or personnel.
   “Oil Spill Exercise” means an activity designed to achieve a particular result in an oil spill emergency, involving deployment of either personnel, equipment or both.

155. These Regulations may be cited as the Oil Spill and Oily Waste Management Regulations, 2011.
APPENDIX I-1

REGULATORY AND LEGAL FRAMEWORK

1.0. The petroleum sector of the Nigerian economy consists of interdependent activities, which include exploration, production, transportation, refining and marketing. Whereas the sector, no doubt, provides the engine for significant economic growth through contributions to national revenue, virtually all the activities in this sector are not only prone to pollution of the host environment but have also readily provoked social discord.

1.1. Of particular importance and concern are the discharges of oil and oily waste from oil and gas activities. And in the effort to curb pollution of land and water resources, governments all over the world have enacted national laws, regulations, guidelines and standards to control and manage the operations of the Petroleum Sector to achieve sustainable development.

1.2. In Nigeria, environmental guidelines and standards have been established by appropriate authorities to regulate the operations in the Petroleum Sector. However, with increasing oil and gas activities in the new horizons of the deep and ultra-deep offshore areas the Inland Basins of Chad and Anambra, coupled with the proliferation of surface and underground petroleum storage tanks in the downstream sector as well as the restructuring of the Petroleum Sector it becomes imperative to review and update the existing environmental regulations for the petroleum sector, to make them conform with the new challenges.

1.3. Existing regulations for Oil Spill and Oily Waste management are constantly being reviewed to reflect new advances in technology and better understanding of the interaction between anthropogenic activities and the environment.

A. Legal Framework

1.0. The preparation of Regulations for oil spill and oily waste Management in the Nigerian petroleum sector is enabled by the Act No. 15 of 2006 establishing the National Oil Spill Detection and Response Agency (NOSDRA). Section 26 of the NOSDRA establishment Act, 2006, mandated the Agency, upon the approval of the governing board, to make regulations that are necessary or expedient for giving full effect to the provisions of the Act and for the due administration of its provisions.

1.1. Authority for the development and implementation of the earlier regulations was derived from National and International Laws, Conventions and Protocols. These are:
* Petroleum Act No. 51, 1969
* The Oil Terminal Dues Act No. 9, 1969
* Oil in Navigable Waters Act No. 34, 1968
* Oil Pipeline Act, 1956
* Federal Environmental Protection Agency Act No. 58, 1988 (Repealed 2007)
* International Convention for the Prevention of Pollution of the Sea by Oil (OILPOL), 1954
* International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC), 1990
* Environmental Impact Assessment Act, 1992
* Harmful Wastes (Special Criminal Provisions, etc) Act, 1988

APPENDIX I—2

EXPLORATION, PRODUCTION AND DEVELOPMENT

1.0. Activities in the Exploration and Development sub-sector of the petroleum industry include seismic survey, drilling and well completion, which may be carried out on dry land, swamp, shallow coastal waters and estuaries, including shallow off-shore and deep or ultra deep off-shore waters.

2.0. Exploration.
   1.1. Seismic survey uses sound waves to locate and map sub-surface structure to determine the potential for oil or gas accumulation which can be accomplished through the use of dynamite on land now being replaced by vibrators to create sound waves. At sea, powerful air and water guns are the main
energy sources. On land, the sound waves are detected by an array of geophones, while in water, they are captured in hydrophones.

1.2. Wells are drilled into substructures where petroleum is trapped to determine the nature and extent of potential hydrocarbon reservoirs. Exploratory and appraisal drilling is performed with a rotary drill bits outfitted to a mobile rig, designed to operate either on land, swamp, coastal waters or ultra deep off-shore waters.

1.3. The drilling rig is equipped with four main sub systems of equipment to bore the hole viz, power, hoisting, rotating and circulating. These are in addition to supporting facilities for the work crew.

1.4. Drilling of holes is accomplished by the use of three types of drilling Fluids-water based fluid (WUF), oil based fluid (OBF), and Synthetic Based Fluids (SBF). The fluids are constantly circulating medium of communication to the surface of down-hole conditions thus providing warnings of impending kicks and formation leaks or fractures (lost-circulation).

1.5. Mud is a mixture of clays, chemicals and WBF, OBF or SBF, all carefully formulated for optimum performance in a given well. Basic mud compounds, include bentonite (clays), barium sulphate (barite) and lime or caustic soda for pH control. Also added are materials to enhance lubrication and emulsification.

2.0. Development.

2.1. Development of a reservoir shown to contain hydrocarbon from exploratory drilling involves the drilling of a large number of holes, 6 to 30, usually in a fixed pattern from a platform, which could be fixed or mobile. Recent advances in technology have made it possible to drill horizontal as well as vertical wells to increase reservoir drainage.

C. SOURCES OF OIL SPILL AND OILY WASTES

1.0. SEISMIC ACTIVITIES

1.1. Oil spill and oily wastes discharges could occur from refueling and maintenance of engines of seismic survey trucks on land or seismic survey vessels on water with the potential volumes expected to be minor.

2.0. EXPLORATION, PRODUCTION AND DEVELOPMENT OPERATIONS

2.1. General

2.1.1. Exploration, production and development operations are prone to oil spills and oily wastes discharges. These could result from a well blow-out, discharge or drilling muds or fluids, drill cuttings, deck drainage and well treatment fluids.

2.2. DRILLING MUD SYSTEMS

2.2.1. These are suspensions of solids and dissolved materials in water, oil or synthetic fluid base that are used to maintain hydrostatic pressure control in the well bore, lubricate the drill bit, remove drill cuttings from well bore and stabilize the walls of the well bore during drilling or work-over operations. Three types of mud systems are in use in Nigeria; water based mud (WBM), oil based mud (OHM), and synthetic based mud (SBM).

2.2.2. Water based mud consists of natural clays and additives (organic and inorganic) to achieve proper density, viscosity and lubrication characteristics. From pollution standpoint, fluorochrome lignosulphate (chromium pollution) and lead compounds are of major concern.

2.2.3. Oil based mud contains oxidized asphalt, organic acids, alkali, stabilizing agents and low toxic oil (<10%). Clay solids and weighting agents can also be added. Also used are mud emulsions consisting of oil-in water or water-in oil varieties.

2.2.4. Synthetic Drilling Mud Systems include five (5) generic types, which are used to deliver not only optimal performance in more challenging drilling conditions, but also best environmental performance in terms of toxicity, biodegradability andbin-accumulation potentials. These are:

* Acetyl
* Internal Olefins (10)
* Ester Based Fluids (EBF)
* Linear Alpha Olefins (LAO)
* Poly Alpha Olefins (PAO)
2.3. DRILL CUTTINGS
2.3.1. Drill cuttings consist of various rocks, particles and liquids released from geological formations in the wellbore. TABLE II-I of this Appendix shows the estimated volumes of drill cuttings produced and drilling mud required in a typical drilling operation.

### TABLE II-I: ESTIMATED VOLUMES OF CUTTINGS PRODUCED AND REQUIRED MUD

<table>
<thead>
<tr>
<th>Drilling Interval (m)</th>
<th>Hole size (cm)</th>
<th>Volume of Cuttings Produced (bbl)</th>
<th>Weight of Cuttings Produced (MT)</th>
<th>Mud Used</th>
<th>Weight of Components (MT)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0.35</td>
<td>61</td>
<td>600</td>
<td>223</td>
<td>Fresh water/Bentonite mud</td>
<td>106</td>
</tr>
<tr>
<td>305-1372</td>
<td>56</td>
<td>1,700</td>
<td>631</td>
<td>-do-</td>
<td>136</td>
</tr>
<tr>
<td>1372-3350</td>
<td>38</td>
<td>1,500</td>
<td>557</td>
<td>+chrome free Lignosulphate</td>
<td>228</td>
</tr>
<tr>
<td>3350-4054</td>
<td>23</td>
<td>190</td>
<td>71</td>
<td>-do-</td>
<td>41</td>
</tr>
<tr>
<td>Total</td>
<td>-</td>
<td>3,900</td>
<td>1,482</td>
<td>-do-</td>
<td>511</td>
</tr>
</tbody>
</table>

2.3.2. When brought to the surface, drill cuttings are usually contaminated drilling fluid (mud), and are shaken on sieves to regain the fluid. However, some fluid still remains on the cuttings even after additional washing procedures. The recovered fluid is recycled to be used again and the cuttings with some residual fluid may be discharged to seabed or taken ashore for treatment or re-injected into appropriate wells and reservoir.

2.4. OIL SPILLAGE
2.4.1. Oil spillage may result from exploration, production and development operations when it occurs, large volumes of oil are released into the environment especially if caused by a well blow-out.

2.4.2. Deck drainage which results from precipitation runoff contains oil from miscellaneous leakages and spills from dulling equipment and wash-down of drill ship or platform.

3.0. POTENTIAL WASTE STREAMS IN EXPLORATION AND DEVELOPMENT
3.1. Identified waste streams in Exploration and Development activities include - drill cuttings, drilling fluids, deck drainage, well test, treatment fluids, oily debris, sanitary wastes and oil spills.

APPENDIX 1—3

PRODUCTION OPERATION AND SOURCES OF OIL SPILLS AND OILY WASTES

1. PRODUCTION OPERATION
1.0. After a well is drilled and established to be productive, the mobile unit is then replaced by a fixed installation.

1.2. Hydrocarbon fluids move to the surface through tubing contained within the cased borehole. Energy to lift fluids can be provided by natural formation pressures or various induced mechanical means. The most commonly used is fluid injection method by forcing gas into oil stream, which reduces hydrostatic fluids density of oil trapped in the reservoir for a lift to the surface through pumps.

1.3. Pressurized hydrocarbons occur as oil, natural gas and salt water (brine). The mixture is separated on the surface into individual components at various process stages, which also contains suspended or dissolved solids.

1.4. A reduction on pressure above the liquid phase ensures the release of gas which is often dissolved in oil this is so because oil from high pressure well can only be free of gas at several stages of decomposition. Oil and brine which occur sometimes in emulsion due to Vigorous mixing or natural occurrence is propelled to surface by use of moderate heat, chemical addition, electric charge, or quiescence settling. A bored gas well produces dry gas and also varied quantities of light hydrocarbons called gas liquid or condensate.

1.5. Produced gas and oil can be fed into gas pipelines or used as crude oil for export and refinery or petrochemical inputs respectively.
2. SOURCES OF OIL SPILLS AND OILY WASTES
2.1. The discharges from production operations include oily-effluents and accidental oil spills.

2.2. Liquid or Aqueous wastes may occur from leakage at producing and abandoned wells, manifolds, SPMS/SBM, rupture, piping or storage facilities tank overflow), corrosion, accidental spills, produced formation water, deck drainage, etc.

2.3. Oily wastes can be generated (during routine maintenance, third party interference, equipment malfunction and from workmen or cleaning of facilities or accommodation drainage, which are primarily polluted with oil and grease.

2.4. Waste streams in Production Operations include-produced formation water, oily waste water, oil spills and oiled absorbents.

APPENDIX 1

TERMINAL OPERATIONS

1.0. Terminal activities involve the storage, dehydration, fiscalisation and dispensing of crude oil for export or local use in refineries and petrochemical industries. These require the installation and operation of facilities such as storage tank, piping system, pumping equipment, and dehydration equipment including water treatment equipment, loading and metering systems.

2.0. For best environmental management operations, regulations and guidelines are established for the prevention, control and monitoring of oil spills and oily wastes discharges.

B. DESCRIPTION OF OPERATIONS

1.0. STORAGE AND PUMPING

1.1. Cylindrical, vertical or horizontal steel tanks with fixed or floating roof steel tanks are designed and used for the storage of crude oil, some of which have the capability of storing crude oil as much as 600,000 barrels.

1.2. The terminal tanks are equipped with the main loading pumps powered diesel or gas turbines and gas combustion engines (boaster pumps), with connecting pipelines from land, swamps and offshore. Network of pipelines convey crude oil to platforms Berth Operating Platform (BOP), from where the lines continue to underwater manifolds Submarine hoses link the manifolds to SPMS/SBM, where tankers of loading capacity of about 320,000 tones can be loaded.

2.0. DEHYDRATION

2.1. Dehydration processes take place in oil or water separating chambers or devices for expulsion of produced formation water from crude oil required for export or processing or refining so as to keep it dry. Total water drainage capacity per tank farm or terminal can be as high as 150,000 barrels per day.

C. SOURCES OF OIL SPILLS AND OILY WASTES

1.0. OILY SUBSTANCES OR LIQUID WASTES

1.1. The following are sources of oily water or substances from terminal operations.

- Oil spill-leakages from pipe, hose burst, malfunction or faulty equipment, corrosion, maintenance operation etc.
- Discharges from treatment facilities of oily brine formation water.
- Storm water runoff.
- Vessels for ballast, bilge and cleaning waste.
- Discharge of refined products from service vessel.

2.0. SOLID WASTE

2.1. Significant sludge from clean-up tanks and water heaters, garbage, spent oil, grits, dirt, etc could be produced.

3.0. TYPES OF WASTE STREAM IN TERMINAL OPERATIONS

3.1. The potential waste streams in terminal operations include formation water, sludge, garbage, spent oil, grits, dirt, oily storm water run-off, refined products, oiled debris and liquid wastes, sanitary sewage.
APPENDIX 1—5

REFINING OPERATIONS

1.0 The petroleum refining processes consist of separation of crude oil molecular constituents, molecular cracking and rebuilding including solvent finishing and in the refining processes of crude oil, gaseous, liquid and solid effluents are discharged into the environment.

B. DESCRIPTION OF REFINING OPERATIONS

2.0. Petroleum Refining can be grouped into topping, fuel oil, gasoline, lube oil and petrochemical operations.

2.1. The fuel oil or gasoline refineries involve crude desalting, topping or skimming (atmospheric pressure distillation), and crude distillation which separate the feed into straight run fractions, with the ultimate production of fuel oil and gasoline.

2.2. Other processing units include light end treating and recovery, hydro-treaters for crude distillation cuts, naphtha upgrading, thermal cracking and sulphur recovery. Crude oil and products are stored in above ground storage tanks.

2.3. The lube oil refinery operations consist of the vacuum distillation of raw lube oil fractions at two separate units to produce asphalt and heavy lube oil (bright stock). The de-asphalted lube oil is further treated at several units or improved quality of the lube oil stacks which are blended to produce various oil products.

3.0. Refineries in Nigeria (Four (4) Petrochemical Plants operate in Nigeria - one in Kaduna, two in Ekpan - Warri and one at Eleme - Port Harcourt respectively. See (Table 1-2).

3.1. The Kaduna Plant uses UOP technology, which involves purification of straight run kerosene by de—sulphurization and denitrification, extraction or dehydrogenation of normal paraffin into Linear Olefins, which are alkylated for detergent production. It is a 30,000 metric ton capacity plant.

3.2. The Carbon Black Plant in Warri is of 18,000 metric ton per year, and is designed on the Philip's Petroleum Oil furnace technology design, where decant oil fed through fluid catalytic cracking unit is used to produce grades of hard carbon black.

3.3. Alkylate will be produced using catalytic HF Alkylation of Iso-butane with butane in the Philips HF Alkylation's process.

3.4. Also, at the Warri Plant, Polypropylene (co-polymers and homo-polymers) are produced by catalytic polymerization of purified propylene feed utilizing the EL Paso process.

3.5. At the Eleme Petrochemical Plant, other refining operations include the Gas Conversion and Processing Plant, Ethylene Processing Plant, etc.

<table>
<thead>
<tr>
<th>Refinery</th>
<th>Daily Refining Capacity</th>
<th>Category</th>
</tr>
</thead>
<tbody>
<tr>
<td>Port Harcourt (old)</td>
<td>60,000 Bbls/stream day</td>
<td>Fuel oil/Gasoline</td>
</tr>
<tr>
<td>Port Harcourt (New)</td>
<td>150,000 Bbls/stream day</td>
<td>Fuel oil/Gasoline</td>
</tr>
<tr>
<td>Warri (Ekpan)</td>
<td>125,000 Bbls/stream day</td>
<td>Fuel oil/Gasoline</td>
</tr>
<tr>
<td>Kaduna</td>
<td>110,000 Bbls/stream day</td>
<td>Fuel oil/Gasoline and Lube oil with Wax moulding Tin/Drum manufacturing and sulphur making units.</td>
</tr>
</tbody>
</table>

C. SOURCES OF OIL SPILLS AND OILY WASTES IN REFINING OPERATIONS

4.0. Oil spills and oily wastes are derived from three sources in the refinery and petrochemical operations viz: fuel oil or gasoline, lube oil and petrochemical processes.

4.1. FUEL OIL OR GASOLINE AND LUBE OIL REFINING PROCESSES

4.1.1. Free oil, grease and oily wastes are derived from processing areas, oily water effluents, storm water or run-offs and solid wastes. Others in this category are cleaning water, ship’s ballast, spent oil, storage tank failures and contaminated process water.
4.1.2. Solid Wastes contaminated with fuel oil and gasoline products include refuse, silt from drainage channels, solids from maintenance and cleaning operations, sludge from treatment facilities or storage tanks, scraps and entrained solids in the crude or product as sludge.

4.2. PETROCHEMICAL REFINERY
4.2.1 The major sources of oil spillage and oily wastes discharges into the environment include process water, accidental spillages, piping leakages, cleaning water, storage tank failures and storm water run-off.

4.2.2. Other sources of oily wastes are Carbon Black Reactor, Dryer, Bag Filter, Ash Sludge, Homo co-polymer Reactor Extrusion and Off-spec products.

4.3. POTENTIAL WASTE STREAMS IN PETROLEUM REFINING AND PETROCHEMICALS INDUSTRIES
4.3.1. These include free oil, process water, grease, storm water runoff, effluents, storage tank sludge, solid wastes-refuse, silt, scraps.

APPENDIX 1—6
BLENDING PLANT
1.0. Blending Plants are where petroleum products such as petrol engine oil, diesel engine oil, hydraulic oil, grease, etc are manufactured with attendant environmental pollution, which should be managed and controlled.

1.1. The authority to prescribe regulations and uniform environmental management practices for the prevention, control and monitoring of associated oil spills and oily wastes in Blending Plant operations is derived from the National Oil Spill Detection and Response Agency (Establishment) Act No. 15 of 2006.

B. DESCRIPTION OF OPERATIONS
2.0. The operational processes of Blending Plants consist of storage of base stocks in storage tanks, mixing or blending of base oil of different categories and additives to produce the finished products usually petrol or diesel engine oil, transmission or grease oil, hydraulic oil, storage and packaging of finished products through tanks, drums, cans and bulk loading.

C. SOURCES OF OIL SPILLS AND OILY WASTES IN BLENDING PLANTS
3.0. The sources of wastes in blending plants include liquid wastes such as run-off at filling points, leaks and spillages due to equipment failures or corrosion, process water, storm water and solid wastes occurring as base oil sludge from storage tanks, metallic, glass or plastic and paper containers, or water separators. Pipeline spills are as a result of corrosion due to age of equipment, loose Juts and burst pipes.

3.1. TYPES OF WASTES FROM BLENDING PLANTS
3.1.1 These include base oil or sludge, metallic materials, glass, plastic paper containers, grease, process storm water and run-off liquid wastes, etc.

APPENDIX 1—7
OIL AND GAS TRANSPORTATION
The transportation of oil and gas is achieved through pipelines, ships, coastal barges, road tankers, rail-wagons, etc. The potential and associated adverse effect of oil spills and oily wastes from the various transportation operations on the environment, no doubt have had their economic and social implications.

3.2. To minimize the resultant negative impacts of oil spillages and oily wastes pollution from this sector in Nigeria, the identified causes must be controlled, thus necessitating these Regulations and Guidelines.

3.3. Discharges of crude oil or petroleum products could arise from overflow of storage tanks during products reception, leakages from loading arms, pumps and malfunctioning, inefficient oil separators.

4.0. TANK FAILURE
4.1. Oil spill and Oily Waste discharges could occur as a result of differential settlement and corrosion due to age of tank, design errors or water at tank bottom.
5.0. SURFACE DRAINAGES
5.1. Run-off from storage or loading area into surface drainages could contain petroleum products from miscellaneous spills and oil leakages from facilities, such as loading arms and bays, generator houses and pumps.

5.2. TYPES OF WASTES FROM THE DEPOTS AND TANK FARMS
Common wastes are crude oil, petroleum products, lube oil, oily liquid effluents, solid wastes and contaminated soil and sand.

APPENDIX 1—8
RETAIL OUTLETS (FILLING STATIONS)
1.0. Retail Outlets are facilities for dispensing petroleum products to end users, the facilities consist of dispensers, pumps, surface and underground storage tanks.

1.1. All regulations and guidelines on oil and oily wastes discharges at the retail outlets are governed by the National Oil Spill Detection and Response Agency (Establishment) Act No. 15 of 2006.

B. DESCRIPTION OF OPERATIONS
2.0. Discharge of petroleum products from trucks or vehicles, dispensing of products through pumps, automobile service, car Wash, mini-marts and Supermarkets are the basic operations in a retail outlet.

C. SOURCES OF OIL SPILLS AND OILY WASTES
3.0. DISPENSING ACTIVITIES
3.1. Overflow or overfilling of vehicles or boats fuel tanks, etc give se to spills.

4.0. AUTOMOBILE SERVICES
4.1. Servicing of automobile engines could impact on the environment with oil spills or oily wastes due to drained engine oil (used engine oil) and washing of engine parts at a retail outlet.

5.0. STORAGE TANKS
5.1. Leakages, seepages and spills occur due to corrosion of underground storage tanks (USTs) as a result of age of materials, equipment or facilities, design error, use of sub-standard construction materials or water at the bottom of the storage tanks.

6.0. DRAINAGE CHANNEL
6.1. Run-off in surface drainages could contain discharged oil or oily from waste consisting of engine oil and oil leakages from dispensing area or car wash.

6.2. Types of Wastes from Retail Outlets.
These include spilled products, drained spent engine oil from automobiles and power generating units, run-off and oily waste water.

APPENDIX II—1
STANDARDS FOR SPILL PREVENTION CONTROL AND COUNTER MEASURES PLAN (SPCCP)
A. BACKGROUND
1.0. The Spill Prevention Control and Counter Measure Plans (SPCCP) are carefully thought-out plan prepared in accordance with the best available current technology practices for the prevention, control and management of Facilities capable of causing oil discharges in minor, medium or major quantity upon land or navigable waters of Nigeria.

1.2. Existing regulations to control oil spill and oily wastes discharges been reviewed to accommodate increasing oil and gas activities in the on-shore, offshore or deep offshore horizons.

1.3. The following enactments and Regulations provide the legal basis for the standards and parameters contained in the SPCCP—
- Oil Pipeline Act 1965;
- Oil in Navigable Waters Act 1968;
- Petroleum Act 1969, Section 8 (i) b (iii);
• Petroleum (Drilling and Production) Regulations 1969;
• Petroleum Refining Regulations 43 (3), 1974;
• OSDRA Act No. 15 of 2006, etc.

B. APPROPRIATE METHODS APPROVED BY THE AGENCY

1.0. The complete SPCCP shall contain the requirements stipulated in the following sections to ensure the inclusion of appropriate safeguards and technology by owners or Operators of oil facilities in order to prevent leakages, spillages and discharge of oil arid oily wastes in and or upon land or navigable waters of Nigeria.

1.2. All facilities which have the potential to cause oil spills and oily waste accumulation in or upon land, and navigable waters of Nigeria due to tank overflow, rupture, seepage, spillage or leakages shall have any one of the following appropriate containment plan or structure constructed to prevent oil flowing into or upon adjacent land or navigable water course.
* Bund-wall
* Spill diversion and retention ponds
* Booms or other barriers
* Absorbent materials
* Drip Pans
* Sumps and collection systems, etc.

1.3. Where the practical measures in Article 1.2 of this Appendix are unrealizable, an Oil Spill Contingency Plan (OSCP) shall, at the appropriate level, be prepared and made functional.

1.4. Onshore Facility drainage systems shall be provided with manual operated valves or ejectors as flopper types are not suitable for spill prevention or control operation. The valves shall be of open and closed design.

1.5. Facility drainage system shall be designed to return excess oil to the Facility designed being able to retain oil including preventing oil discharge into or upon land or navigable water course in event of equipment failure.

1.6. Bulk storage tanks shall be constructed with good quality materials with appropriate coating and cathodic protection to prevent leakage, seepage and corrosion including surrounding the tank with impervious material to contain any spilled oil. In onshore facilities, storage tanks shall have alternative confinement system for spills such as retention pit or catchment basin.

1.7. Runoffs from storm water drainage or effluent discharge shall pass through treatment system chambers to remove the oil before discharge and the chambers shall have installed sealed closed valves, which shall be regularly checked.

1.8. Underground Storage Tanks (USTs), shall have protective coatings, cathodic protection or any other material compatible with the soil condition, which shall be regularly checked.

1.9. Semi buried storage Facility shall be discouraged as it is prone to rapid corrosion of the part submerged due to earth and air interface.

1.10. Surface and above ground storage facilities and their foundations shall be regularly subjected to routine checks, hydrostatic testing, visual inspection or thickness testing to detect material (infects and prevent oil spillage and comparative records kept.

1.11. Internal heating coils leak control shall be regularly checked for contamination or have it by-passed using a skimmer or settling tank or install external heating systems to keep it free from contaminants.

1.12. Storage tanks shall be installed with either of the following to check spillage, leaks or material defect:
• High Liquid Level Alarm;
• Cut-off devices;
• Coded signal between tank gauge and pumping station;
• Digital Computers, Tele Pulse or Direct Vision Gauges;
• Liquid Level Sensing (LLS) devices;

All these shall be regularly monitored against defects to Prevent oil spills.

1.13. Effluent disposal systems shall be observed regularly for possible stem upsets and leaks from defective visible sources, which should be promptly corrected against loss of oil from tank seams, gaskets, rivets or loss bolts.
1.14. Owners or operators of Mobile or Portable oil Storage Facilities shall ensure that no spill reaches any water course by providing devices catchment basins big enough to contain 110% of the facilities largest tank storage capacity and shall be located in an area free from periodic flooding and washout.

1.15. Owners or operators of Facility transfers, pumping and in-plant process shall ensure the following oil spill, leak or pollution preventive measures are in place:
(i) Cathodic protection, coating and protective wrapping for all buried pipe installations.
(ii) Routine inspection of surface pipe installation, control valves, pumps, bolts, signs of material corrosion or deterioration.
(iii) Caps and Blank-flange and mark placed as origin of pipelines not in se or standby for terminal connection.
(iv) Pipe Support must pass the ASTM and API material tests to ensure minimum abrasion and corrosion including allowance for material expansion contraction.
(v) Pressure testing for installed pipes.
(vi) Automobiles must have the minimum entry permit to oil Facility area and shall obey strictly, ‘no entry’ or 'restriction prohibited’ signs.

1.16. Mobile or portable oil storage automobiles owners’ or operators shall observe the following rules during operations:
(i) Loading and off-loading points shall have drainage systems which empties into a retention pit designed to hold maximum single spill from a truck without overflow of product.
(ii) The loading area shall be fitted with departure manual lighting signal device for trucks to prevent accidental spill that may arise due to drivers’ over-zealousness.
(iii) Vehicles shall be scrutinized for signs of leakage after loading before being permitted to depart with product.

1.17. Accumulated oil in runoff or storm water drainage shall be collected for recycle and the effluent treated to acceptable limit before disposal to land or water course.

1.18. Field drainage facilities shall be regularly inspected and spilled oil appropriately recovered and removed.

1.19. Brine water disposal facilities shall be regularly inspected to detect possible system failure that could lead to spillage following sudden change in temperature.

1.20. Production facilities shall have a program of flow-line maintenance to prevent oil spills or oily wastes discharges which shall include periodic examinations, Corrosion protection, flow-line replacement and adequate records for individual facilities.

1.21. Casing and Blowout Prevention (BOP) assembly shall he installed before drilling or work-over operations to control any wellhead pressure that may be encountered.

**Offshore Operations**

1.22. Oil drainage collection equipment such as where Article 1.2 of this Appendix cannot be made to apply, shall be regularly emptied to prevent an overflow and the content taken to secured place for treatment and discharge.

1.23. A regular scheduled preventive maintenance inspection and testing program shall be held for facilities using sump system, sump or drain to assure reliable operation of the liquid removal system and pump start-up devices.

1.24. In areas where separators and treaters are equipped with pump valves, it shall be extended to flare lines if the separator is near-shore, while equipping it with a high liquid level sensor to prevent oil discharge from producing wells.

1.25. Atmospheric storage or surge tanks shall be equipped with high liquid level sensor to prevent overflow and oil spill.

1.26. High pressure tanks shall be installed with pressure sensing devices fitted with alarm system or flow control to prevent oil spill.

1.27. An inspection and maintenance manual shall be provided by owners or operators in the industry for all operations liable to cause oil spill, leak or discharge such as terminal, wellhead, depots, pipelines flow-lines, platform, manifolds, trunk-lines, treatment plants, retail-outlets, separation equipment, non-transportation-related auxiliary equipment and facilities, dispensing pumps, retention pit or basins.
1.28. The manual shall have detailed explanation and description of individual Facility components of oil prevention activation methods or controls instructions including other methods of operation for all categories of workers in a Facility.

1.29. Extraordinary well control measures shall be provided for emergency conditions including fire, loss of control or abnormal occurrence that could lead to spillage.

1.30. The degree of control system redundancy shall be varied with hazard exposure and probable consequences of failure, surface shut-in systems shall be installed with fail close valves.

1.31. Manifolds shall be equipped with individual check valves on flow-lines.

1.32. Sub-marine pipelines appurtenant to facilities shall be adequately protected against environmental stress and other human activities such as fishing.

1.33. A Facility owner or operator shall ensure that sub-marine pipelines are regularly inspected on scheduled periodic basis.

**INSPECTION AND RECORDS**

1.34. As part of the SPCC Plan, owner or operator of each Facility shall develop separate three (3) years inspection procedure manual with record of required scheduled inspections and signed by appropriate supervisor or NIOSDRA inspector.

**SECURITY**

1.35. Owners or operators shall ensure that all facilities have adequate exclusion zones based on risk assessment are fully fenced and entrance gate provided and manned by security personnel.

1.36. All facilities shall be properly secured with locks and cross-checked when not in operation.

1.37. All oil pumps with starter control shall be securely locked in the “OFF” position and shall be restricted to only authorized personnel on duty.

1.38. Caps and Blank-flanges shall adequately secure all loading and offloading connections of oil pipelines not in use or standby service including pipelines that are emptied of liquid content either by draining or inert gas pressure.

1.39. Facilities shall be adequately lighted-up at night for discovery of parable oil leaks or spills and equally prevent third party interference.

**PERSONNEL TRAINING AND SPILL PREVENTION PROCEDURE**

1.40. Owners or operators of oil facilities shall provide adequate and regular training for their personnel in the area of operation and maintenance of equipment to prevent oil spills including knowing applicable pollution control laws, rules and regulations.

1.41. Each applicable Facility shall have spill prevention supervisor who reports directly to line management.

1.42. Owners or operators of oil facilities shall conduct periodic drills to assure adequate understanding and activation of the SPCCP for its facilities.

1.43. Facilities with accommodation shall have routine weekly periodic briefing sessions on spill prevention and control. Emphasis shall be on known spill events or failures, equipment malfunction or malfunctioning components and recently developed precautionary measures.

**APPENDIX II—2**

**OIL SPILL RESPONSE FORMS**

**APPENDIX II—4**

**PROCEDURES FOR LABORATORY ANALYSES OF OIL SPILLS, OILY WASTES AND OILY CONTAMINATED SOILS**

1.0. Owners or operators of oil and gas exploration and production, petroleum refining, transportation, and marketing facilities in Nigeria shall ensure that laboratory analysis of oil spills and oily wastes samples
obtained from their operational area or associated facilities are carried out using the guidelines and Best Available Technology (BAT) as recommended by the Agency.

2.0. SAMPLE COLLECTION AND PRESERVATION
At the polluted site, samples collected must be properly labelled with indelible marker pen giving details of sample type and sampling points. The recommended techniques and preservation of samples collection from oil spill sites is as stated in Appendix II -3.

To minimize error, measurements must be replicated, while sample tools and containers are to be pre-sterilized, pre-treated and samples in transit preserved in ice-cool chest at <4°C and transported to an approved laboratory for analyses of key physico-chemical parameters.

It is required that the collected samples for laboratory analysis shall be categorized and labeled thus:
(i) Oily Waste and Effluent;
(ii) Spilled Oil;
(iii) Oil Contaminated Soil.

30. KEY INDICATOR PARAMETERS
The physic-chemical analysis shall concentrate on key indicator parameters as shown below.

<table>
<thead>
<tr>
<th>Type</th>
<th>Key Parameters</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oil Wastes/Effluent</td>
<td>pH, COD, HOD 5, Oil &amp; Grease, TPH, PAH, BTEX, Trace Metals, TSS</td>
</tr>
<tr>
<td>Spilled Oil</td>
<td>pH, TOC, Oil &amp; Grease, TPH, PAN, BTEX, Trace Metals</td>
</tr>
<tr>
<td>Oil Contaminated Soils</td>
<td>pH, TOC, Oil &amp; Grease, TPH, PAN, BTEX, Heavy Metals</td>
</tr>
</tbody>
</table>

4.0. Recommended Analytical Method
The methods for analyses of the key physic-Chemical parameters shall be as provided in the Table II-4 below.

<table>
<thead>
<tr>
<th>Method</th>
<th>Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASTM D 1203B; APFH 460, 424; Electrometric A PI-RP 45 EPA method</td>
<td>pH</td>
</tr>
<tr>
<td>ASTM D 1252, APHA 508, Dichromate</td>
<td>Chemical Oxygen Demand, COD</td>
</tr>
<tr>
<td>APHA 507, APA 5 D method</td>
<td>BOD 5</td>
</tr>
<tr>
<td>ASTM D 1868, APHA 208 D</td>
<td>Total Suspended Solids (TSS)</td>
</tr>
<tr>
<td>ASTM D 2579</td>
<td>Total Oil Content</td>
</tr>
<tr>
<td>APFTTA 228 A, 428 D, ASTM B 1233, API-RP 45</td>
<td>Sulphide (HS)</td>
</tr>
<tr>
<td>OCMA-200, Range 0-100ppm</td>
<td>Oil anti Grease</td>
</tr>
<tr>
<td>ASTM D 106 C; AP-RP45; EPA (AAS) and APHA (301A) (AAS method)</td>
<td>Iron, Fe</td>
</tr>
<tr>
<td>ASTM D 1688D, API-RP45; EPA (AAS) and APHA (301A) (AAS method)</td>
<td>Cooper, Cu</td>
</tr>
<tr>
<td>ASTM D 3559, API-RP45; EPA (AAS) and APHA (301A) (AAS method)</td>
<td>Lead, Pb</td>
</tr>
<tr>
<td>ASTM D 3229, APK-RP45; EPA (AAS) and APHA (301A) (AAS method)</td>
<td>Mercury, Hg</td>
</tr>
<tr>
<td>ASTM D 2972, API-RP45; EPA (AAS) and API IA (301A) (AAS method)</td>
<td>Chromium, Cr6+</td>
</tr>
</tbody>
</table>
Where the source of oil spill is in contention, samples shall be collected by the Agency from the polluted site(s) and also from the facilities of the contending parties for finger-printing in an approved laboratory, using the procedures and methods prescribed in these regulations and guidelines.

50. REQUIREMENTS OF SAMPLE COLLECTION FOR LABORATORY ANALYSIS
A. This prescribed procedure shall provide general guidelines for sampling, storage, analyses and laboratory safety for quality control and assurance.

B. STANDARDS FOR SAMPLE COLLECTION AND ANALYSES
1.0. Samples shall be taken from impacted sites for laboratory analysis.
1.1. A control sample shall be taken away from activity area. Such sample shall be a representation of the existing condition prior to pollution.
1.2. In order to prevent contamination, samples shall be preserved prior to analysis.

C. SAMPLING EXERCISE
1.0. The most critical factors necessary for sampling exercise include geo-referencing of sampling points and the integrity of the collected samples prior to laboratory analysis.

D. SAMPLING POINTS
Sampling points shall include the following:
- Effluent or contaminated substance at discharge point.
- Lower end of effluent channel to allow for thorough mixing.
- At a convenient point prior to any treatment where representative sampling can be obtained.
- At least 500 meters upstream and downstream of the receiving medium.

E. SAMPLE CONTAINERS
1.0. The containers shall be of chemically resistant glass or collapsible plastic polythene, which shall be thoroughly cleansed to remove all extraneous surface dirt. The glass stoppers and plastic caps shall be thoroughly washed and should be tight-fitted to prevent leakage and entry of contaminants.
1.1. Before collection of samples, the container shall be rinsed thoroughly with the substance to be collected.

F. LABELING
1.0. Sample containers shall be properly labeled to show the sample number, location, temperature, date and time of collection.

G. IN-SITU MEASUREMENT
1.0. The basic in-situ tests in the activity area shall include the pH, ambient temperature of the sample, rate of flow of the fluid in the equipment, type and quantity of preservative which shall be signed by the sampler.

H. CONTAINER SHIPMENT AND LABELING
- The sample container shall be large enough to accommodate the volumetric expansion capacity of the liquid when tilled.
- The shipment container shall have compartments for separate sample containers to avoid mix-up and lined with foil or corrugated paper and the containers shall be held in place with elastic bands or spring clips.
- The addresses of the consignee and consignor shall be plainly printed on two sides of the shipment container with an attached label or card marked ‘fragile’, ‘corrosive’, ‘flammable’ or ‘hazardous’, etc. to indicate the nature of the substance being shipped.
I. TYPES OF SAMPLING
1.0. Some basic sampling method include the following:
   (i) Grab sampling- This shall involve the collection of sediment samples from the bottom of the sea, rivers or lakes, etc.
   (ii) Composite sampling- This shall consist of portions collected at specific sites or combination of sites and at different interval.
   (iii) Continual practice- This type provides a continuous flowing sample from one or more sampling sites suitable for on-stream analysis.

J. PRESERVATION
1.0. This shall be used in order to reduce or retard the following:
   (i) Biological action.
   (ii) Hydrolysis of chemical compounds and complexes.
   (iii) Volatile nature of compounds.

K. CHAIN OF CUSTODY RECORD
1.0. Records shall be kept for all samples and such records shall indicate type of sample, location, date, time of collection, name of the sampler, sample custodian, handler and method of analysis, before transfer to a laboratory for requisite analysis.

APPENDIX II—5

PROVISION FOR THE CONTAINMENT, RECOVERY AND CLEAN-UP OF OIL SPILLS AND OILY WASTES SITES

1.0. Owners or operators of facilities in marine environment shall act swiftly to check the spread of oil spills or oily waste discharges by deploying appropriate equipment and materials such as booms, skimmers, absorbents, saver vessels, aircrafts, dispersants, pumps, hoses, fenders and signal lamps, etc.

1.1. Owners or operators of spiller facilities in inland waters and wetlands shall completely contain the oil spill or oily wastes through mechanical or manual recovery and this shall also require the cleanup of Impacted site.

1.2. Owners or operators of facilities capable of negatively impacting the environment shall—
   • maintain dedicated and efficient personnel, as well as establish up-to date line of communication;
   • have in stock booms large enough to encircle a loading ocean-going vessel (Tanker);
   • maintain appropriate containment equipment with capacity to contain the largest oil spill or oily wastes from its facilities; and
   • possess appropriate and properly maintained earth moving equipment, absorbents, pumps, hoses and pick-up devices, etc.

1.3. Owners or operators of spiller facilities on land or ditches shall prevent the spread of oil or oily waste and ensure the protection of nearby marine and water courses as priority.

1.4. Booms shall be deployed to safeguard threatened shorelines or sensitive shores from being polluted using the National Environmental Sensitivity Index (ESI) Maps as a guide.

1.5. Owners or operators of spiller facilities shall consider the sensitivity of the impacted sites when choosing cleanup methods. These methods shall include: gentle flushing, ditch excavation, manual recovery, etc.

1.6. Owners or operators of facilities capable of impacting on the environment shall maintain an effective and efficient network system with specific internal alerting procedure on emergency situations as approved by the Agency.

1.7. Owners or operators of spiller facilities shall comply with standard procedure for the reuse, incineration, controlled burning (in pits), land farming and sanitary land filling of recovered oil spills and oily wastes.

1.8. Owners or operators of facilities which generate oily contaminated wastes shall have them stored in leak-proof containers, pits or high density polyethylene (HDPE) before adopting any of the standard procedures in Article 1.7 above.
1.9. Owners or operators of spiller facilities shall have the cost of clean-up and un-recovered oil, etc. documented and submitted to the Agency.

1.10. Owners or operators of spiller facilities shall strictly comply with the requirements of the Agency’s Oil Spill Report Format.

1.11. Any obstruction by an individual or group of individuals in the oil containment, recovery, clean-up and remediation exercise, shall attract a penalty of not less than ₦500,000.00 (Five hundred Thousand Naira).

APPENDIX II—6

POST REMEDIATION REPORT FORM

To, NOSDRA Operational Area
Form, Owner or Operator of Facility

Date ____________________________

1. Date/Time/Location of Site Remediated __________________________________________________________

2. Date Remediaion Commenced ________________________________________________________________

3. Duration of Remediation ________________________________________________________________

4. Type of chemical/equipment/containment method
   (a) _______________________ (b) ___________________ (c) _________________________

5. Estimated progress of remediation in percentage _____________________________________________

6. Estimated Area of Remediation Site __________________________________________________________

7. Extent of damage (in %) to:
   (a) Land _____________________ (b) Water ___________ (c) Human Resource __________________

8. Estimated cost of remediation on
   (a) Daily Facility output
   (b) Repairs
   (c) Land use
   (d) Man Hour Lost

9. Adopted Remediation Option
   (a) Stabilization/Solidification
   (b) Chemical Treatment
   (c) Biological Treatment
   (d) Thermal Treatment

10. Specify follow-up action

11. Reporting Officers’ Signature ______________________________________________________________
    Name ___________________________ Designation ____________________________

*Oil shall be deemed to mean both crude and relined petroleum products.

APPENDIX III—1

PROCEDURES FOR THE PREPARATION OF OIL SPILL CONTINGENCY PLAN

1.0. An Oil Spill Contingency Plan is a pre-determined action document prepared for oil spill containment and response with the approval of the regulating authority.

1.1. Authority for Contingency Planning was derived from National and International Laws, Conventions and Protocols, which are:
- Petroleum Act 1969, Section 8 (1) b (iii)
- Petroleum (Drilling and Production) Regulations I 969
- Petroleum Refining Regulations 43 (3), 1974
- Pipeline Ordinance Cap 145, 1956; Regulations 17 (3)
- Oil Pipeline Act amended 1965
• International Convention for Prevention of Pollution of the sea by oil, 1954 amended 1962
• Oil in Navigable Waters Act 1968
• Convention on Continental Shelf and High Seas (Geneva 1958)
• Oil Pollution Preparedness Response and Co-operation (OPRC90)

1.2. Three levels of Contingency Planning currently exist in Nigeria viz Tier I, Tier II and Tier III. By definition, Tier I is for minor spill, Tier II is the oil company’s Co-operative Plan for medium spill, while Tier III is the National Plan against major or disastrous oil spills.

The classification is as follows:

- **Tier I Minor Spill**
  - 0-25 barrels to Inland waters
  - 0-230 barrels to land or coastal or offshore waters

- **Tier II Medium Spill**
  - 25-250 barrels to Inland waters
  - 250-2500 barrels to land or coastal or offshore waters

- **Tier III Major Spill**
  - Above 250 barrels to Inland waters
  - Above 2500 barrels to land or coastal or offshore waters

B. CONTENTS OF OIL SPILL CONTINGENCY PLAN

1.0. The Oil Spill Contingency Plan should be comprehensive and cover all Three Tiers of response, the OSCP should also include the following but not limited to:

- Aims and Objectives of setting up the plan, which is basically on the environmental protection, preparedness, good record keeping of spillage and spill Information dissemination,

Every Oil and Gas Operator shall have an Oil Spill Contingency Plan (OSCP) in accordance with the Petroleum Act 1969. The (OSCP) is a documented response plan to be followed in the event of an oil spill. Every operator is mandated to submit a copy of its OSCP annually to NOSDRA. A joint annual activation exercise shall be conducted by NOSDRA at the Operator’s facility.

The objectives of the OSCP are:

- Ensure timely, coordinated and effective response to threat of spillage of oil to marine and land-based resources
- Protect human health and safety by implementing a rapid response to minimize long term environmental damage and social dislocation.
- Minimizing the spread of oil spilled in the environment
- Recovering the spilled oil.
- Protecting sensitive ecology and habitat from the spilled impact.
- Cleaning oil impacted sites.
- Choosing spill management strategies which are efficient and adequate and do not damage the environment.
  - Identification of facilities, potential sources and volume of spills-risk exposure level.
  - Response strategy, including ESI maps.
  - Organizational structure.
  - Manning, Equipment and Material Stock level.
  - Communication and Miscellaneous.

Procedure for Containment, Recovery, Clean-up and Remediation

1.1. Description of facilities and areas of operations is mandatory for all owners or operators in the industry, which can be achieved by the following:

- Types of operations.
- Identification of potential sources of spills from facility.
- Determine appropriate equipment and materials for deployment in worst case scenario and the potential deficiencies.
- Predict sensitive areas that require absolute protection and prepare a detail colour coded environmental sensitivity index, ESI maps of operators activity areas
- Produce detailed coded ESI maps of specific points that need more attention.
- A follow-up comprehensive report with emphasis on the physical, ecological, operational, health and socio-economy concerns in the identified sensitivity area.
1.2. Organization and Responsibilities shall be reflected in a detailed flow-chart, which shall be placed at all of its operational facilities.

1.3. Oil Spill Response could be in-house, on-site comprehensive approach or co-operatives, where:
(i) owner or operator is required to have trained in-house combat response team in its employment;
(ii) in a situation where owners or operators activities are not localized, all personnel involved in day to day Facility operations are trained on rudiments of spill control or combat and removal spill prior to the arrival of its commissioned personnel;
(iii) with a memorandum of understanding among the players in the industry, oil spill control co-operatives can be formed to combat oil spills from member facilities, which might render an operator’s combat preparedness inadequate due to its magnitude for effectiveness and swiftness that is required with contemporary available technology, which that member cannot shoulder alone.

2.0. EQUIPMENT STOCKPILING
2.1. Stockpiling of equipment will depend on whether the operation is on-shore or off-shore. However, the following shall normally be required in the chain of custody of combat equipment of operators as contained in Appendix III-2.

Any mutual agreement between individual operators and Clean Nigeria Associates (CNA) with respect to equipment stockpile shall be clearly stated with evidence in the OSCP of the company.

Clean Nigeria Associates (CNA) shall upgrade its equipment stockpile.

3.0. PROCEDURES FOR CONTAINMENT AND CLEAN-UP
3.1. This shall depend on the sensitivity of the area or location of spill.
   (i) Marine occurrence requires swift and effective spill containment to check the spread.
   (ii) For inland waters and wetland complete containment and mechanical or manual recovery and clean-up of spill may be required.
   (iii) For off-shore waters, containment and mechanical recovery is the option for spill clean-up.
   (iv) On land, ditches shall be required to prevent spread as priority shall be placed on the protection of marine and water courses if the spill is close to it.
   (v) Booms should be deployed to safeguard threatened shorelines or shore area from being contaminated on careful evaluation of the socio-economic sensitivity, oil behaviour in the area and shore area type.
   (vi) Clean-ups for wetland or mangroves shall include gentle flushing, ditch excavation and manual recovery.
   (vii) The schedule for clean-up shall be determined by the requirements of Oil Spill Report Forms.

4.0. COMMUNICATION
4.1. Owners or operators of oil facilities shall have an effective communication network linking all its facilities with specific internal alerting procedure in ease of spill emergency including approved reporting procedure to appropriate authorities.

5.0. MANAGEMENT AND DISPOSAL OF RECOVERED SPILL OIL AND OILY WASTES
5.1. The Agency recommended methods shall be by reuse, incineration, controlled burning (in pits), land farming and sanitary land-filling as approved by it.

5.2. Contaminated Wastes shall be stored in a leak-proof container or pit or High Density Poly-ethylene (HDPE) before adopting any of the approved disposal methods by the appropriate authority.

5.3. The owner or operator of the spiller Facility shall have a documented cost of clean-up exercise submitted to the Agency including the cost of unrecovered oil.

C. REMEDIATION AND REHABILITATION EXERCISE
1.0. The remediation and rehabilitation programme for the impacted site shall be included to achieve the following:
1. For all waters, there shall be no visible sheen after the first 30 days of spill detection no matter the spread.
2. There shall be no record of oily stain in swamp after 45 days of occurrence.
3. The target allowable limit of spills on land or sediment is at a minimum of 50mg/kg of oil content.

1.1. Remediation Plan shall include monitoring, and Post Spill Impact Assessment of the impacted site(s).
1.2. The chemicals used for clean up shall be approved by the Agency before use. The three conditions that shall be met for the chemicals are its effectiveness, toxicity and biodegradability.
1.3. The following information shall be submitted to the Agency for permission to use oil spill chemicals for clean-up:
   (1). Spill Data Report Sheet.
   (2). Information on available dispersants and dispersing equipment.
      - Efficiency under existing conditions
      - Surface area of slick, which can be treated
      - Schedule of dispersant operation
   (3). Humans and utility at risk.

1.4. Where an operator or owner cleans up spills that did not originate from its Facility, such operator or owner shall be paid all the expenses incurred. Following the clean up, finger printing investigation shall be conducted to determine the spiller who shall be held liable to reimburse the cleaner the cost of the clean up.
1.5. It shall mandatory for owners or operators to carryout finger-printing of its crude oil, field-by-field and the results submitted to the Agency.
1.6. Owners or operators of spiller Facility shall have in place trained combat team on spillage prevention, control, clean-up and rehabilitation.
1.6. The operator shall organize drills and desktop review exercises of its contingency plans annually.

APPENDIX III—2

STOCKPILE OF SPILL RESPONSE EQUIPMENT AND MATERIALS

1.0. Owner or operator of facilities which may cause oil spill or oily wastes discharge into the environment shall stockpile a minimum of the under listed equipment and materials at all times for effective combat deployment for Tier I spills or for a first line of defense for Tier II or III spills,
   • Dedicated transport facilities
   • Booms enough to encircle any maritime tanker loading
   • Maintain appropriate containment equipment enough to contain largest spill from operators facility
   • Earth moving equipment
   • NOSDRA approved chemical dispersant
   • Skimmers and Other Pick-up Devices
   • Specialized Shoreline Clean-up Equipment
   • Specialized Vessels and others
   • Aircraft or Helicopters and specialized vessels
   • Dispersants
   • Forklifts
   • Hoses
   • Lightening Equipment
   • Communications and Auxiliary Equipment
   • Others
   • Emergency Safety Equipment
   • First Aid Kits
   • Personal Protection Equipment
   • Portable Monitors for VOCs
   • GPS
   • Lightening Equipment
   • Anemometer, etc.
APPENDIX III—3

RISK BASED CORRECTIVE ACTION (RBCA)

REMEDIATION PRINCIPLE

1.0. Risk Based Corrective Action is a logical and scientific-based framework for determining the extent and urgency of corrective action plan for impacted site(s). It integrates risk and exposure assessment practices with site assessment activities and remedial measure selection to ensure that the chosen action is cost-effective and protective of human health and the environment.

1.1. Prior to initiating an application for RBCA process, operators shall consult the Agency to review the requirements of the proposed remediation plan based on RBCA principle.

1.2. The RBCA report shall, at a maximum, include the following:
   (i) Executive summary;
   (ii) Site description;
   (iii) Summary of the use and site ownership;
   (iv) Potential and past incidence locations;
   (v) Summary of current and completed site activities;
   (vi) Description of regional hydrological conditions;
   (vii) Description of site-specific hydrological condition;
   (viii) Summary of beneficial rise;
   (ix) Summary and discussion of the risk assessment viz hazard identification, dose response assessment, exposure assessment and risk;
   (x) Characterization including the methods and assumption used to calculate the RBSL or SSTL or both;
   (xi) Summary of the Tier Evaluation;
   (xii) Summary of the analytical data and the appropriate RBSL or SSTL used;
   (xiii) Summary of ecological assessment;
   (xiv) Location map;
   (xv) Land-use map showing groundwater supply wells;
   (xvi) Relief map showing structures, above ground storage tanks (GST), USTs, conduit utilities, suspected or confirmed sources and so forth;
   (xvii) Site photos if available;
   (xviii) Groundwater evaluation map;
   (xix) Geological cross-section(s); and
   (xx) Dissolved plume map(s).

1.3. Strict quality assurance and control (QA/QC) procedures shall be instituted by operators to assure the integrity of data for the RBCA process.

1.4. Upon completion of the RBCA process, operators shall establish a monitoring programme, which shall demonstrate the effectiveness of implemented remedial action measures or to confirm that current conditions or will improve with time.

1.5. When all instituted remedial programmes have been suitably met, no foreseen institutional control to ensure compliance, then no further act shall be necessary.

3.0. RBCA PLANNING

3.1. The Planning of RBCA uses the Tier concept approach such as Tier 1, Tier 2 and Tier 3 for risk-based corrective actions; each tier requiring detailed information in reaching less or more conservative assumptions in the level of risk estimates.

The tier approach provides the advantage that the cost of assessment is proportionate to the level of risk posed by the contamination.

3.2. Tier 1 approach requires information on site conditions and the nature assessed contaminants, which is prioritized on the basis of urgency for corrective action, based on the information collected from historical records, visual inspection and site assessment. Other conditions necessary are degree of threat to human health, obvious environmental impacts, the presence of potentially impacted sensitive receptors e.g. workers, residence, land-use and potential receptors pathways. The site conditions are then compared with referenced generic risk-based screening levels (RBSLs). If the site contamination exceeds those screening levels, the analysis moves to a second stage, Tier 2.
3.3. Tier 2 approach is:
• Additional specific site information or data.
• Site-specific target levels (SSTLs).
• Points of compliance.
• Site concentration levels (SCLs).

Unacceptable risks are presented by those substances whose site concentration levels exceed its SSTLs. The tier 2 SSTLs are derived using the same equation for RBSLs except that site specific parameters are used.

3.3. Tier 3 allows SSTLs to be determined for both direct and indirect pathways using site specific parameters. The approach requires additional site assessment, probabilistic evaluations, sophisticated chemical transport and fate modeling.

APPENDIX 111—4

DISPOSAL PLAN FOR OIL SPILLS AND OILY CONTAMINATED WASTES OF MATERIALS

1.0. It is mandatory to dispose of unwanted recovered oil spills and oily contaminated wastes in an acceptable manner as approved by the Agency.

1.1. Owners or operators of spiller facilities shall dispose of unwanted recovered oil by incineration, controlled burning (in lined pits), land farming and sanitary land-tilling.

1.2. Where the owners or operators of spiller facilities intend to engage in land excavation for disposal activities, it shall provide the Agency with the following information:
   (a) Methods adopted to prevent leaching, contamination of ground and surface water resources.
   (b) Site characteristics, type of soil and proposal to determine owner’s or operator’s capabilities to handle the oil to be disposed.
   (c) Groundwater level and direction to ensure that groundwater shall not be easily contaminated.

1.3. The Agency recommended oily waste disposal method shall include but not limited to:
   (a) Resource recovery
   (b) Land farming
   (c) Controlled burning in lined pits
   (d) Sanitary land filling.

APPENDIX III—5

ACRONYMS ABBREVIATIONS AND DEFINITIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>WBF</td>
<td>Water Based Fluid</td>
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<tr>
<td>WBM</td>
<td>Water Based Mud</td>
</tr>
<tr>
<td>OBF</td>
<td>Oil Based Fluid</td>
</tr>
<tr>
<td>OBM</td>
<td>Oil Based Mud</td>
</tr>
<tr>
<td>SBF</td>
<td>Synthetic Based Fluid</td>
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<tr>
<td>IO</td>
<td>Internal Olefins</td>
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<tr>
<td>EBF</td>
<td>Ester Based Fluid</td>
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<tr>
<td>LAO</td>
<td>Linear Alpha Olefins</td>
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<tr>
<td>PAO</td>
<td>Poly Alpha Olefins</td>
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<tr>
<td>NOSDRA</td>
<td>National Oil Spin Detection and Response Agency</td>
</tr>
<tr>
<td>MARPOL</td>
<td>Marine Pollution</td>
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<tr>
<td>OILPOL</td>
<td>Oil Pollution</td>
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<tr>
<td>OPRC</td>
<td>Oil Pollution Preparedness Response and Co-operation</td>
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<tr>
<td>USTs</td>
<td>Underground Storage Tanks</td>
</tr>
<tr>
<td>ASTs</td>
<td>Above Storage Tanks</td>
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<tr>
<td>FMEnv</td>
<td>Federal Ministry of Environment</td>
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<tr>
<td>SPCCP</td>
<td>Spill Prevention and Counter Measure Plan</td>
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<tr>
<td>JIT</td>
<td>Joint Investigation Team</td>
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<td>JIV</td>
<td>Joint Investigation Visit</td>
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<tr>
<td>FEPA</td>
<td>Federal Environmental Protection Agency</td>
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</tbody>
</table>
MADE at Abuja this 26th day of May, 2011.


PETER IDABOR

Director-General and Chief Executive,
National Oil Spill Detection and Response Agency.
ARRANGEMENT OF REGULATIONS

1. Operational coverage of the Regulations.
2. Requirement for oil spill detection.
3. Methods for Observation and Recording.
4. Oil Spill Reporting.
5. Joint Investigation Visit
7. Protective Strategies.
8. Quantifying Free Phase Oil.
9. Shoreline Clean-up.
10. Mobile Oil.
11. Sand Beaches Clean-up.
12. Rocky Shore Clean-up.
13. Saltmarsh and Mangrove.
15. Inland Clean-up by Bioaugmentation.
17. Termination of Clean-up.
18. Containment and Recovery.
20. Water and Sea Conditions.
22. Application of Dispersants at Sea.
23. Restriction on the use of Dispersants in Oil Spill Management;
25. Damage Assessment.
27. Basis for Compensation.
28. Storage.
29. Management of Recovered Oil.
31. Remediation of Impacted Sites.
32. Site Identification.
33. Site Evaluation.
34. Type of Impact.
35. Type of land use.
36. Measurement of the Site for Remediation.
37. Area Topography
38. Land Use, Cover and Soil Type.
39. Soil Sampling
40. Physical Evaluation of Soil.
41. Percentage of Aggregation.
42. Biological Activity.
43. Clay Content of Soil.
44. The Feel lest.
NATIONAL OIL SPILL DETECTION AND RESPONSE AGENCY ACT
(No. 15 of 2006)

OIL SPILL RECOVERY, CLEAN-UP, REMEDIATION AND DAMAGE ASSESSMENT REGULATIONS, 2011

Commencement  [26th of May, 2011]

In exercise of the powers conferred on it by Section 26 of the National Oil Spill Detection and Response Agency, (Establishment) Act No. 15 of 2006 (“the Act”) and all other powers enabling it in that behalf, the National Oil Spill Detection and Response Agency hereby makes the following regulations:

PART I — OBJECTIVE AND SCOPE OF APPLICATION

1. **Objective**: These Regulations establish procedures, methods and other requirements for detection, response, clean-up and remediation of oil spills from onshore and offshore petroleum facilities into or upon land and navigable waters of Nigeria or adjoining shorelines.

   **Scope**: These Regulations shall apply to all onshore and offshore petroleum facilities engaged in exploration, production, storing, processing, refining and distribution of oil products that have the potential to spill into or upon land and navigable waters of Nigeria or adjoining shorelines:

   Provided that these Regulations shall apply without prejudice to existing regulations for the prevention of oil spill into or upon land and navigable waters of Nigeria or adjoining shorelines.

PART II — OPERATIONAL PROCEDURES FOR SPILL RESPONSE

2. (1) The owner or operator of onshore or offshore facility from which oil is discharged into or upon land or navigable waters of Nigeria shall provide monitoring system or equipment for oil spill detection and shall carry out rapid assessment to evaluate the severity of the spill incident by aerial and visual surveillance in order to quantify the spilled oil.

   (2) Aerial observation which includes aerial reconnaissance or surveillance shall:

   (a) be an essential element in effective response to marine oil spill, determining the location, extent of contamination or predicting the direction and fate of oil slick at sea;

   (b) guide the deployment of response equipment, control of operations at sea, timely protection of coastline sites and shoreline clean-up preparations;

   (c) be undertaken visually or by use of remote sensing systems; and

   (d) be essential in determining the real extent of contamination in land areas, especially in difficult terrain.
(3) Visual observation of floating oil from the air shall be one of simplest methods of
determining the location and scale of an oil spill.

3. An owner or operator of a facility making a report shall make available maps, geo-
referencing charts and other basic data such as the location of the spill source and of
pertinent coastal features to assist in the accurate location of the spill site.

4. (1) Any person who observes a spill or an oil slick at sea shall report to the facility owner,
the Agency or any other related regulatory or security organization.
(2) The owner or operator of such facilities shall quickly take measures to verify and
confirm the incident and if the incident is confirmed to have occurred, the operator
shall respond in accordance with OSCP/SPCCP of the facility.
(3) The owner of an onshore or offshore facility within 24 hours notify the Agency of any
oil spill from such facility.
(4) The format for reporting oil spills shall be prescribed in the First, Second and Third
Schedules respectively, to these Regulations.

5. A joint investigation team comprising the owner or operator of a spiller facility, Community
and State Government representatives aid the Agency, shall be constituted immediately
after an oil spill notification, to visit the spill site and investigate the cause and extent of
the spillage and a report of their findings prepared by the Agency in accordance with the
Fourth Schedule to these Regulations.

6. In the event of a spill, the operator shall —
(a) contain the spill with suitable barrier and recover the free phase oil using appropriate
equipment;
(b) use approved dispersants to break up the oil and speed its natural biodegradation;
(c) apply biological agents to the spill to hasten biodegradation; or
(d) adopt the best practice method to allow it disperse or break down by natural means if
there is no threat to the environment.

7. In using Environmental Sensitivity Index (ESI) maps and other similar aids, the operator
shall give priority to the protection of sensitive resources.

8. (1) The JIT shall make an estimate of the quantity of oil observed at sea and on land to
guide in planning the required scale of clean-up response.
(2) The estimation of the volume of spill may be done by using any of the following
industry practices, namely—
(a) American Petroleum Institute
(b) Oil Spill Response Limited
(c) Minerals Management Services
(d) Physical inspection and management; or any other industry acceptable practice
approved by the Agency.
(3) Oil spill incidents are classified into three, namely —
(a) Minor Spill: 0.25 barrels to inland waters
  0-250 barrels to land or coastal or offshore waters;
(b) Medium Spill: 25-250 barrels to inland waters
  250-2500 barrels to land or coastal or offshore waters; and
(c) Major spill have 250 barrels to inland waters
  Above 2500 barrels to land or coastal or offshore waters.

9. The operator shall promptly remove oil from contaminated shorelines to avoid the oil
weathering with time and sticking more firmly to rocks and sea walls, or becoming mixed
with or buried in sediments.

10. The operator shall deal specially with mobile oil residues which may Mobile Oil residues
which may pick of sediments in inshore waters, in the surf zone or after temporarily
stranding on beaches then washing off.

11. The operator shall remove bulk oil from sand beaches, using a combination of well-
organized teams of manual labourers assisted by front-end loaders and other mechanical
equipment to transport recovered wastes.
12. The operator shall recover bulk oil from rocky shores close to amenity beaches or sea-walls and slip-ways manually or by using vacuum units or other skimmers on pooled oil.

13. Residual oil shall be left to weather or degrade naturally on sensitive shoreline types such as salt marshes and mangroves, as extensive damage can be caused by the physical disturbance of clean up, team and vehicles than by the oil itself.

14. The operator shall apply fertilizer to adjust the balance in the CNP ratio and enhance the degration rate by indigenous microbial community.

15. The operator shall deploy bioaugmentation where natural microbes for oil deration are not abundant.

16. The operator shall use bioremediation for the breakdown of final traces of oil after clean up by other methods and the addition of nutrients such as nitrogen and phosphorus which aid rapid microbial growth shall be preferred to the addition of cultured, specialist bacteria due to the latter being rapidly out-competed by naturally occurring oil degrading bacteria which are adopted to local conditions.

17. The Agency shall constantly monitor and evaluate all clean-up activities, to ensure that they remain appropriate as circumstances change and shall immediately terminate any operation that has been shown to be ineffective or unacceptable.

PART III — CONTAINMENT AND RECOVERY

18. (1) Isolation and containment of an oil spill shall be the first line response to all oil spills and suitable barrier shall be put on the path of the spreading oil in order to stop the spread and prevent pollution escalation into the environment.

(2) For containment on land, the oil spill may be prevented from spreading by containment dikes, bund walls or any other industry acceptable process that contains the oil spill.

(3) In recovery, efforts should target the heaviest oil concentrations and areas where collection will reduce the likelihood of oil reaching sensitive resources and shorelines.

(4) Where soil is impacted, it shall be remediated after the evacuation of free phase oil.

19. Operator may use any of the under-listed equipment for containment and recovery operations, namely—booms, skimmers, absorbents, dikes, bunds, ridges and storage facilities.

20. Depending on oil type, prevailing weather and sea conditions, alternative response options may be made for oil containment and recovery at sea.

21. The Agency shall take into account oil characteristics, sea and weather conditions, as well as surrounding environmental sensitivities in approving the use of dispersants in Spill Containment and Recovery.

22. Dispersant may be applied to open water by the following methods—

(a) vessel spraying; and

(b) aerial spraying

23. The use of dispersants offshore shall be restricted to a distance of not less than ten nautical miles away from shoreline, and no dispersant may be used in the inland areas.

24. The Agency shall monitor the application and effectiveness of chemical dispersant.

25. (1) On completion of clean-up, the Agency shall undertake damage assessment in collaboration with the relevant stakeholders.

(2) The Assessment shall include data on extent on damage to the environment including the biodiversity, water resources, fishery and other fishery resources, properties (NOAA-2000) socio-economic losses and damage assessment is a responsibility that shall be undertaken by the Agency in collaboration with the relevant stakeholders.

(3) The Assessment shall form the bases of the compensation to be paid for the losses.

26. (1) An owner of operator of an oil spill facility shall pay compensation to an oil Spill victim for damage caused to the victim’s person, business or property.

(2) Compensation shall not be paid for spill caused by third person interference of sabotage.
(3). An owner of operator shall internalized the cost of compensation as part of polluter-pay-principle.

27. Compensation shall be paid for damage to buildings, economic trees or crops by any person who surveys, digs, lays pipes or such other activities for the supply and distribution of energy and fuel.

PART IV — OIL AND OILY WASTE MINIMIZATION AND MANAGEMENT

28. Oil and oily wastes shall be collected and stored separately and barges, trucks, skip, drums, fast tanks and properly lined retention pits shall be used in the storage of oil and oily waste for a period not exceeding sixty days.

29. Oil recovered from oil spill response activities shall be recycled in line with recognized industry practices approved by the Agency.

30. The disposal of oily wastes shall be strictly in accordance with method approved by the Agency which may include —
   (a) Incineration;
   (b) Stabilization;
   (c) Landfill.

31. Owners or operators of oil facilities shall obtain approval from the Agency.

32. (1) Owners or operators shall identify the impacted site and report to the Agency.
   (2) The Agency shall carry out a more in-depth and well-structured site assessment where there is—
      (a) a record or evidence of previous spills;
      (b) inadequate storage system by the owner operator;
      (c) poor operational history;
      (d) complaint against the owner or operator;
      (e) detection of contaminants from monitoring systems;
      (f) warning letters and physical evidence of oil stain, oil sheen, soil and stressed vegetation; and
      (g) Warning letters and clean-up orders from regulatory agencies.
   (3) The polluted site identification shall include, where necessary, aerial reconnaissance with maps geo referencing and location, showing dimension of site, relationship to town and waterways, and photographs showing topography, nature and existing structures and information for each site shall be accompanied with relevant record keeping forms.

33. (1) The operator or owner of a facility shall identify and report any spill incident to the Agency.
   (2) The Agency shall immediately after an oil spill notification constitute a joint investigation team comprising representatives of the oil company, state government, community and the Agency, to investigate the cause and extent of the spillage.
   (3) The Agency shall prepare a report which shall be endorsed by all JIT members in accordance with the Fourth Schedule to these Regulations.
   (4) The initial screening parameters that may assist on best type of remediation for polluted soils and sediment and the likely effect of different parameters on soil and sediment during remediation are as shown in the Sixth and Seventh Schedules to these Regulations.
   (5) In defining the spill problem in site evaluation, the questions contained in the Eight Scheduled to these Regulations shall apply.

34. (1) Oil and gas environmental impacts are classified as current or historical and the remediation procedure is similar for both classifications.
   (2) Historical site may be more difficult to remediate due to the age the impacted site and some cases may require special remediation procedures such as salt or produce water and hydrocarbons (emulsion) mixture and old pits.

35. (1) Operators shall identify the type of land use in assessing the extent of human and ecological exposure to the pollutant, in planning practical remediation programs.
   (2) The specified land uses considered in this guideline are:
      (a) Agricultural — which includes all uses of land where the activity is primarily
related to the productive capability of the land or facility and is agricultural in nature, or is related to the feeding and housing of animals such as livestock.

(b) **Residential or Parkland** — which includes all uses of land where dwelling on a permanent, temporary or seasonal basis is the primary activity such as institutions, hospitals, schools or daycare.

Parkland which includes all land uses in which the primary activity is recreational in nature and requires the natural or human designed capability of the land to sustain that activity such as Playgrounds.

(c) **Commercial**— which includes all uses of land where the primary activity is related to the buying, selling or trading of merchandise or services.

(d) **Industrial**— which includes all land uses where the primary activity is related to the production, manufacture or storage of materials.

36. (1) Remediation shall commence as soon as the need to do so in is given site is established.

(2) The size of the impacted sites shall be determined by measuring the parameter and the coordinates using the Global Positioning System.

37. (1) Site gradient and direction shall be determined by the following indicators:

   (a) Flat <1%
   (b) Slight 1-2%
   (c) Moderate 2-5%
   (d) Steep >5%

(2) The mode of Access to the impacted area shall be noted and documented by the operator and the operator shall communicate remediation plans to Agency and address any landowner’s concern.

(3) An owner or operator shall examine the surrounding topography record hills, valleys, bodies of water, and other significant land features.

   An owner or operator shall identify any erosion problems, repair major erosion trails, determine erosion causes and establish erosion prevention program where necessary.

38. (1) Land cover shall include crop, fallow, pasture and the type and amount of plant growth shall be determined and recorded.

(2) Predominant soil types such as sand, silt or clay are to be identified:

   (a) Soil test results and depth of hydrocarbon penetration— if contained in top 15cm, removal shall be the best option.

   (b) Soil removal (and replacement) is generally recommended for soil with Total Hydrocarbon Content (THC) value above 5000 mg/kg dry weight.

   (c) Consider sensitivity of area and time required to remediate.

   (d) Hydrocarbon contamination depth and concentration.

   (e) Replacement soil should have a THC value of 50 mg/kg dry weight or below.

39. An owner or operator shall consider three major factors when developing a sampling procedure for an impacted site namely:

   (a) **Number and Location of Samples**

   An owner or operator shall obtain the control sample first, approximately 100m from the area of impact and the control sample shall be a true representation of the soil type in that area as follows—

   (i) 1/3 acre = 3 site samples, one control.

   (ii) 2/3 acre = 4 site samples, one control.

   (iii) 1 acre = 5 site samples, one control.

   (b) **Site Uniformity**

   Sample number shall be adjusted according to uniformity and non-uniform features may include heavy clay, sand, vegetated or non-vegetated areas, grade and other areas significantly different from control as follows—

   (i) More than three non-uniform features— add one sample point;

   (ii) Less than three non-uniform features— reduce one sample point in sites greater than two third acre.
(c) Method of obtaining soil sample
   (i) The owner or operator shall collect samples strictly in the presence of the representatives of the Agency and community.
   (ii) The Agency shall also collect samples for independent analysis and control.
   (iii) The technique for taking soil samples shall be based on sample and site types.
   (iv) Sample points shall be selected to best represent the soil surface of the impacted area and the depth should be 0-15 cm for top soil and 15-30 cm for bottom soil.
   (v) Locations shall be marked with flags and Global Positioning System and recorded on the location site map.
   (vi) The non-uniform area shall be sampled where it represents ¼ of the site area.
   (vii) The soil sample shall be placed in a pre-labelled plastic bag to be distributed to stakeholders showing site, date, sample ID number and technician's initials.
   (viii) Tests shall be conducted within 72 hours and results of such test shall be recorded after each analysis is completed.
   (ix) Storage and transport temperature shall be carried out to maintain the integrity of sample.
   (x) Procedure for quality control of samples shall be recorded and report to the Agency.

40. Physical evaluation of the soil will aid in determining the impact of the incident, the proper remediation procedure and in monitoring remediation progress.

41. The owner or operator shall determine the amount of aggregation as rated below:
   (a) Poor- no aggregation
   (b) Fair- small clumping but majority of loose particles
   (c) Good- moderate aggregation throughout soil sample
   (d) Excellent- consistent throughout sample – garden quality soil

42. An owner or operator shall determine the presence and amount of biological activity in the top 5 cm of soil and the relative amount of “earthy” odour will quantify the amount of biological activity as rated below—
   (a) None- No earthy odour
   (b) Fair- Faint earthy odour
   (c) Good- Obvious earthy odour
   (d) Excellent- Heavy earthy odour

43. An owner or operator shall use the “ribbon test” to determine the clay content of soil, whereby a small amount of soil is squeezed and rolled between the thumb and forefingers to determine the relative clay content of the soil and soil that remains intact but curls upon itself is considered to contain greater than 50% clay, <35% - normal productive soil, 35 – 50% clay soil and >50% predominantly clay.

44. The filled test shall also be used to determine the texture of the soil by rubbing some moist soil between the finger wherein sand feels gritty, silt feels smooth and clay feels sticky.

45. The extent of contamination of soil shall be determined by critically examining the soil profile from the core sample or from the sidewall cut and a thicker top oil layer supporting plant growth.

46. (1) Where deep seated hydrocarbon pollution is identified, an owner or operator shall confirm and fully determine the extent of contamination.
   (2) The goal for plume characterization shall be to protect, enhance and restore ground water conditions to the maximum beneficial use to the extent that is technically and economically feasible while maintaining Conditions that are protective of human health and the environment.
   (3) The clean-up levels or goals shall be established on a case-by-case basis in a consistent manner,
   (4) The process set forth below shall be utilized in plume characterization:
      (a) Plum characterization-Owners or operators shall carry out ground water pollution or contamination plume characterization fully to determine—
         (i) The extent of contamination;
         (ii) The contamination source
         (iii) Ground water flow direction
         (iv) Ground water gradient
(v) Ground water velocities
(vi) Hydrogeologic units or formations impacted; and
(vii) Hydrologic connectivity between identifiable units.

(b) Source Control Measures— Technological, chemical, or biological methods or combinations thereof shall be used to control the continued migration of pollution from the source and the following steps shall be taken when selecting appropriate source control measures or practices
(i) Removal (excavation)
(ii) Physical barriers
(iii) In situ treatment.

47. An owner or operator shall keep accurate record of the remediation process.

48. (1) based on site assessment findings, the Agency shall approve a remediation.
(2) Guide to selection of remediation options are provided in these Regulations.

49. After remediation option has been selected, the site owner or operator, based on the tiered level, shall appoint its staff or contractors to carry out the work and the following permits shall be obtained:
  a. Remediaion Work Plan Approval— The work plan shall include a sampling plan which must sufficiently assess potential contamination and describe sampling locations, sample collection method and proposed analysis, and when the work plan has been reviewed and approved, the applicant will be issued a permit.
  b. Health and Safety Plan— A Health and Safety Plan must be developed for the site work and a copy shall be made available to the Agency prior to the commencement of any remediation work.
  c. Accreditation— Contractors must be duly accredited by the Agency based on the scope of work.

50. In undertaking a remediation work, an owner or operator shall
(a) Provide a list of contaminants and their concentration ranges in a tabular format;
(b) Define the contamination plume and show vertical and lateral extent of the contamination and the concentration in plain view and in cross section;
(c) Estimate volume of contaminated soil, water, sediment and underground water; and
(d) Include analysis by a laboratory certified by the Agency.

51. (1) An owner or operator shall:
  a. Provide an overview of site geology and hydrology;
  b. Complete the site-specific description of soil lithology (including boring logs);
  c. Document the depth to groundwater table and the groundwater features;
  d. Indicate the background levels of contaminant in the site vicinity and document all relevant permit;
  e. Prepare site and personnel health and safety plan, estimated time to conduct clean up and show the fate and risk of the impact of residual contamination of groundwater as well as the specific methods that shall be used to remediate the site; and
  f. Owners or operators are to show justification for the methods to be used and provide assurance that all works shall be carried out in accordance with all applicable Local, State and Federal Laws and Regulations.

(2) An appropriate remediation technique for cleanup operations will depend on:
(a) the type and concentration of the contaminants;
(b) the site specific geology and hydrology;
(c) the site specific engineering constraints;
(d) environmental and public health effects; and
(e) the site assessment findings.

(3) The following are required after the site remediation permit is issued:
(a) Commencement of remediation as scheduled in the plan; and
(b) Submission of progress reports to the Agency.
52. On completion of remediation, a final Remediation Report shall be submitted to the Agency and the Report shall contain the following—
   (a) Variations from Initial Remediation Work Plan— The Report shall identify all unexpected conditions encountered or variations from the actions proposed in the initial remediation report and provide logs of all new borings and wells;

   (b) Excavated Materials— The Report shall show limits of each earth material removed in plain view and cross-section and provide evidence that soil or sediment removed from the site was properly manifested or otherwise transported;

   (c) Post-Remediation— The Report shall verify the effectiveness of the remediation method through monitoring and evidence of contamination extraction from the subsurface, submit a Post-Remediation Monitoring Plan for residual contamination (applicable when clean-up levels have not been achieved) and attach laboratory results for all confirmation samples with chain of custody;

   (d) Findings and conclusions— The report shall contain findings and conclusions showing completeness of work and justification for the findings and conclusions.

53. Any person who violates any provision of these Regulations shall be liable to pay the penalties provided for in Section 6(2) and (3) of the Act.

54. These Regulations are made in line with the Best Available Techniques and best environmental practices relevant to Article 5 and Annex C of the Stockholm Convention on Persistent Organic Pollutants.

55. The background information on these Regulations and the Glossary and Glossary of terms are contained in the Twelfth and Thirteenth Schedules to these Regulations.

57. These Regulations may be cited as the Oil Spill Recovery, Clean-up, Remediation and Damage Assessment Regulations, 2011.
# OIL SPILL/LEAK NOTIFICATION REPORT

This report must be submitted within 24 hours of Spill Incidence

## 1. GENERAL INFORMATION

<table>
<thead>
<tr>
<th>i. Company Name</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>ii. Incident Details</td>
<td>Date of Incidence (dd/mm/yy)</td>
</tr>
<tr>
<td>iii. Spill Reference No</td>
<td>Time of Incidence (24h standard daylight)</td>
</tr>
<tr>
<td></td>
<td>Date of Observation (dd/mm/yy)</td>
</tr>
<tr>
<td></td>
<td>Time of Observation (24h standard/daylight)</td>
</tr>
</tbody>
</table>

Survey By: Foot/Boat/Helicopter/Overlook/ Sun/Clouds/Fog/Rain/Snow/Windy

Level of Impact: No Impact / Slight Impact / Heavy Impact

Estimated Quality Spilled

## 2. Site Details

<table>
<thead>
<tr>
<th>i. Site Name:</th>
<th>OML:</th>
</tr>
</thead>
<tbody>
<tr>
<td>ii. GPS Field Points Total Length:___________ m</td>
<td>Length surveyed___________ m</td>
</tr>
<tr>
<td>Spill Start Point GPS Easting _________ metres</td>
<td>Northing ________________ metres</td>
</tr>
<tr>
<td>Spill End Point GPS Easting___________ metres</td>
<td>Northing ________________ metres</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>iii. Site area</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Land Swamp</td>
<td>□ Fresh water</td>
</tr>
<tr>
<td>□ Mangrove</td>
<td>□ Coastline</td>
</tr>
<tr>
<td>□ Offshore</td>
<td>□ Other (Specify)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>iv. Containment Measuring Place</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Boom</td>
<td>□ Trenches</td>
</tr>
<tr>
<td>□ Bundwall</td>
<td>□ Sorbent</td>
</tr>
<tr>
<td>□ Others (Specify)</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>v. Type of Containment</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Crude Oil</td>
<td>□ Condensate</td>
</tr>
<tr>
<td>□ Chemicals</td>
<td>□ Refined Products</td>
</tr>
<tr>
<td>□ Others (Specify)</td>
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</table>

<table>
<thead>
<tr>
<th>vi. Facility</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Pipeline</td>
<td>□ Flow line</td>
</tr>
<tr>
<td>□ Wellhead</td>
<td>□ Manifold</td>
</tr>
<tr>
<td>□ Flow Station</td>
<td>□ Pig</td>
</tr>
<tr>
<td>□ Storage Tank</td>
<td></td>
</tr>
<tr>
<td>□ Compressor Plant</td>
<td></td>
</tr>
<tr>
<td>□ Others (Specify)</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>vii. Properties at Risk</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>□ Farmland</td>
<td>□ Fishpond</td>
</tr>
<tr>
<td>□ Vegetation</td>
<td>□ Fishing net</td>
</tr>
<tr>
<td>□ Surface Water</td>
<td>□ Venerable Objects</td>
</tr>
<tr>
<td>□ Others (Specify)</td>
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</tbody>
</table>

## 3. SURVEY TEAM No. Name | Organisation | Phone Numbers
<table>
<thead>
<tr>
<th></th>
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<tbody>
<tr>
<td>Reporting Officer</td>
<td></td>
<td></td>
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<tr>
<td>Designation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Signature</td>
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<tr>
<td>Date</td>
<td></td>
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</tr>
</tbody>
</table>

*RBA Report must be submitted within two of the spill incidence*
1. GENERAL INFORMATION

i. Company Name

### Incident Details

<table>
<thead>
<tr>
<th>Date of Incidence (dd/mm/yy)</th>
<th>Date Spill was Stopped</th>
<th>Method Used</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Spill was Stopped</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- Clamping
- Wall Shut-in
- Valve Shut-in
- F/Station Shutdown
- Others (Specify)

### Spill Reference No

- Date of Incidence
- Date Spill was Stopped
- Method Used

ii. Date of Incidence

iii. Date Spill was Stopped

iv. Method Used

### Estimated Quantity Spilled:

i. Estimated Quantity Recovered:

vi. Cause of Spill

<table>
<thead>
<tr>
<th>Corrosion</th>
<th>Equipment Failure</th>
<th>Third Party Interference</th>
<th>Accident</th>
<th>Operational Error</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other (Specify) ________</td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

### Containment Measuring Place

<table>
<thead>
<tr>
<th>Boom</th>
<th>Trenches</th>
<th>Bundwall</th>
<th>Sorbent</th>
<th>Others (Specify) ________</th>
</tr>
</thead>
</table>

2. Site Detail:

i. Site Name: ____________________________________________ OML: ______________________

### Site Detail:

<table>
<thead>
<tr>
<th>Site Name</th>
<th>OML</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

ii. GPS Field Points Total Length: __________ m Length surveyed ________ m Differential GPS Yes/No

<table>
<thead>
<tr>
<th>Spill Start Point GPS Easting</th>
<th>Northing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spill End Point GPS Easting</td>
<td>Northing</td>
</tr>
</tbody>
</table>

iii. Site area

- Land Swamp
- Fresh water
- Mangrove
- Coastline
- Near Shore
- Offshore
- Other (Specify)

iv. Facility

<table>
<thead>
<tr>
<th>Pipeline</th>
<th>Flow line</th>
<th>Wellhead</th>
<th>Manifold</th>
<th>Flow Station</th>
<th>Pig</th>
<th>Storage Tank</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compressor Plant</td>
<td>Others (Specify) ________</td>
<td></td>
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</tr>
</tbody>
</table>

v. Site Characterisation

a. Sea Conditions

- Calm
- Rough
- Not Applicable
- Low Tide
- High Tide

<table>
<thead>
<tr>
<th>Current Direction:</th>
<th>Swell Height:</th>
<th>Current Strength:</th>
</tr>
</thead>
</table>

b. Weather Condition

- Bright Sunny
- Partly Cloudy
- Slight
- Others (Specify)

<table>
<thead>
<tr>
<th>Temperature:</th>
<th>Wind Direction:</th>
<th>Wind Speed:</th>
<th>Relative Humidity:</th>
</tr>
</thead>
</table>

vi. Visual Observation of Impacted Area

<table>
<thead>
<tr>
<th>Any oil Sheen on Water</th>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Any oil Sheen on Water</th>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Any oil Sheen on Water</th>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Any oil Sheen on Water</th>
<th>Yes</th>
<th>No</th>
<th>N/A</th>
</tr>
</thead>
</table>

| Any oil Sheen on Water | Yes | No | N/A |

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FORM B

RISK BASED ASSESSMENT FOR OIL SPILL INCIDENCE (RBA)

Note: This report must be submitted within two weeks of Spill Incidence

Receptor Assessment

<table>
<thead>
<tr>
<th>Receptor</th>
<th>Pathway to Impacted (m²)</th>
<th>Distance to Impacted Area (m²)</th>
<th>Estimated Area of Impact Area (m²)</th>
<th>Receptor Impacted Area (Yes/No)</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farmland</td>
<td></td>
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<tr>
<td>Fishpond</td>
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<tr>
<td>Vegetation</td>
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<tr>
<td>Surface Water</td>
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<tr>
<td>Ground Water</td>
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<tr>
<td>Venerable Object</td>
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<tr>
<td>Human Habitation</td>
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<tr>
<td>Livestock</td>
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<tr>
<td>Plantation</td>
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<tr>
<td>Swamp</td>
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vii. Any Casualties

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
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If yes, give details:
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________

viii. Clean up Programme Details:

a. Method of Clean-up:
____________________________________________________________________________________

b. Time Frame for Clean-up:
____________________________________________________________________________________

ix. General Remarks:
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________

REPORTING OFFICER: ____________________________________________
DESIGNATION: __________________________________________________
SIGNATURE: ______________________________________ DATE: __________

*Clean-up programme report must be submitted within 4 Weeks of spill incidence.
### THIRD SCHEDULE

**NATIONAL OIL SPILL DETECTION AND RESPONSE AGENCY**

**FORM C**

**SITE CLEAN UP/REMEDATION ASSESSMENT REPORT**

### 1. GENERAL INFORMATION

<p>| | |</p>
<table>
<thead>
<tr>
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<tbody>
<tr>
<td>i. Company Name</td>
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<tr>
<td>ii. Date of Assessment:</td>
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### 2. SITE DETAILS:

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<tr>
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<tbody>
<tr>
<td>i. Site Name: __________________________________________________</td>
<td>OML:________________________________</td>
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<tr>
<td>ii. Date/Time of Incident:</td>
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<tr>
<td>iii. Area and Depth of Impact:</td>
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<tbody>
<tr>
<td>iv. GPS Field Points Total Length:___________ m</td>
<td>Length surveyed___________ m</td>
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### 3. (i) Date Clean-up Programme Commenced: ____________________________

(ii) Method of Clean-up:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>☐ Low Pressure Wash</td>
<td>☐ Manual</td>
</tr>
<tr>
<td>☐ Chemical Dispersant</td>
<td>☐ Vacuum Skimming</td>
</tr>
<tr>
<td></td>
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</tbody>
</table>

(iii) Estimated Quantity of Oil/Containment Recovered:____________________________________________________

(iv) Method of Debris Disposal:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>☐ Control Incineration</td>
<td>☐ Buried in lined Pits</td>
</tr>
<tr>
<td>☐ Land Farming</td>
<td>☐ Others (Specify)__________________</td>
</tr>
<tr>
<td></td>
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</table>

### 4. Site Visual Observation

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>i. Nature of Soil</td>
<td></td>
</tr>
<tr>
<td>☐ Show Heavy Impact</td>
<td>☐ Medium Impact</td>
</tr>
<tr>
<td></td>
<td></td>
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</tbody>
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<p>| | |</p>
<table>
<thead>
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</thead>
<tbody>
<tr>
<td>ii. Nature of Surface Water</td>
<td></td>
</tr>
<tr>
<td>☐ Oil Sheen Present</td>
<td>☐ No Oil Sheen Present</td>
</tr>
<tr>
<td></td>
<td></td>
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</tbody>
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<tr>
<td>iii. Nature of Vegetation</td>
<td></td>
</tr>
<tr>
<td>☐ Withered</td>
<td>☐ Withering</td>
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<tr>
<td>iv. Site Photos:</td>
<td>☐ Yes</td>
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</table>

### 5. Sample collected after the clean-up programme:

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<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>☐ Soil</td>
<td>☐ Sediment</td>
</tr>
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</tr>
</tbody>
</table>

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481
5. RESULT OF LABORATORY ANALYSIS OF SAMPLE COLLECTED PRE/POST REMEDIATION

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Sample</th>
<th>Test Method</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Pre-Remed</td>
<td>Pre-Remed</td>
</tr>
<tr>
<td>TPH</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>BTEX</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Trace Metals</td>
<td></td>
<td>Pre-Remed</td>
<td>Pre-Remed</td>
</tr>
<tr>
<td>Arsenic</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Barium</td>
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<td></td>
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<tr>
<td>Cadmium</td>
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<td></td>
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<tr>
<td>Chromium</td>
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<td></td>
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<tr>
<td>Copper</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Mercury</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lead</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nickel</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Zinc</td>
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<td></td>
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<tr>
<td>Total Dissolved</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Total Suspended Solids</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

6. Does Site require remediation  ☐ Yes  ☐ No
   If yes,
   (i). Date site remediation commenced:_____________________________________________________________
   (ii). Method of Remediation:
   ☐ Land Farming  ☐ Biopile  ☐ Bio Venting  ☐ Air Sparging  ☐ Chemical Oxidation  
   ☐ Washing/Leading  ☐ Phyto Remediation  ☐ Enhanced Natural Attenuation  
   ☐ Monitored Enhanced Natural Attenuation  ☐ Thermal Desorption  ☐ Others (Specify):_________
   (iii). Is remediation method: ☐ In-situ  or  ☐ Ex-situ
   (iv). Details of remedial method (attached as an annex)

7. Details of rehabilitation plan for impacted population (attached as an annex)

8. Cost of spill
   a. Clean-up cost:_____________________________________________________________________________
   b. Clean-up remediation:_______________________________________________________________________
   c. Cost of repair works:_______________________________________________________________________
   d. Naira lost due to oil spilled:________________________________________________________________
   e. Lost man hour:____________________________________________________________________________
   Total:____________________________________________________________________________________

9. Compensation paid, if any:_______________________________________________________________________

10. Method of Settlement of Claim
    ☐ Arbitration/Mediation  ☐ Direct Negotiation Between Landlord and Operator  
    ☐ Court Settlement  ☐ Not Applicable  ☐ Others (Specify):____________________

11. Date/Time of Visit by Regulations:_________________________________________________________________

12. Remarks by any Third Party:_______________________________________________________________________

13. General Remarks:______________________________________________________________________________

14. NOTE: Officials of NOSDRA must be present when samples are collected, and when analyses begin

REPORTING OFFICER:____________________________________________________________________________
DESIGNATION:___________________________________________________________________________________
SIGNATURE:__________________________________________   DATE:____________________________________
FOURTH SCHEDULE

NATIONAL OIL SPILL DETECTION AND RESPONSE AGENCY

JOINT INVESTIGATION VISIT (JIV) FORM

Note: This JIV Form is to be completed and signed by all participating parties in the field.

1. Company:________________________
2. Type of Complaint/Incident
   - Oil Pollution
   - Fire/Explosion
   - Drilling Mud/Chemical Pollution
   - Others (Specify):______
3. Incident Details
   i. Date of Incident:_________________________
   ii. Date First Reported:______________________
   iii. Date of First Investigation:________________
   iv. Date of Follow-up Investigation:_____________
   v. Time Investigation Started:__________________
   vi. Estimated Quantity Spilled:__________________
4. Site Details
   i. Site/Location:_________________________
   ii. Position of Spill/Leak:_______________________
   iii. Spill Area
      - Land
      - Swamp
      - Freshwater
      - Mangrove
      - Coastline
      - Near-Shore
      - Off-Shore
      - Others (Specify):_____________
   iv. Structural Controls in Place
      - Boom
      - Trenches
      - Bund Wall
      - Sorbents
      - Others (Specify):_____________
5. Circumstances Around Spill Point
   i. Visual Observation of Hole Position
      - 12:00 Clock
      - 10:00 Clock
      - 2:00 Clock
      - 3:00 Clock
      - 4:00 Clock
      - 5:00 Clock
      - 6:00 Clock
   ii. Type of Oil Contaminant
      - Crude Oil
      - Condensate
      - Chemical
      - Refined Products
      - Others (Specify):______
   iii. Facility
      - Pipeline
      - Flowline
      - Wellhead
      - Manifold
      - Flow Station
      - Rig
      - Storage Tank
      - Compressor Plant
      - Others (Specify):______
   iv. Cause of Spill
      - Corrosion
      - Equipment Failure
      - Third Party Interference
      - Accident
      - Operational Error
      - Others (Specify):_________
   v. Visible Sign of Third Party Interference
      - Hacksaw Marks
      - Drilled Holes
      - Blasting
      - Theft
      - Acid
      - Others (Specify):______
e) Shoreline/Water

<table>
<thead>
<tr>
<th>NAME</th>
<th>DIRECTION OF SLICK</th>
<th>LENGTH OF SLICK</th>
<th>WIDTH OF SLICK</th>
</tr>
</thead>
<tbody>
<tr>
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</tr>
</tbody>
</table>

483
8. Photograph/Map/Chart Ref.
   □ Still Photographs   □ Video coverage   □ Mapping

9. Samples Taken:______________________________________________________________

10. Investigation Carried out by
    □ Foot    □ Boat    □ Aircraft

11. Remarks/Recommendation:____________________________________________________
    __________________________________________________________________________
    __________________________________________________________________________

12. Time Investigation Ended:_____________________________________________________

13. Name and Signature of Participants
    NOSDRA
    i. ______________________________________
    ii. _____________________________________
    iii. ____________________________________
    
    DPR
    i. ______________________________________
    ii. _____________________________________
    iii. ____________________________________
    
    STATE MINISTRY OF ENVIRONMENT
    i. ______________________________________
    ii. _____________________________________
    iii. ____________________________________
    
    LOCAL GOVERNMENT COUNCIL
    i. ______________________________________
    ii. _____________________________________
    iii. ____________________________________
    
    COMPANY
    i. ______________________________________
    ii. _____________________________________
    iii. ____________________________________
    
    COMMUNITY
    i. ______________________________________
    ii. _____________________________________
    iii. ____________________________________
The Table below shows the various crude oil types in Nigeria and some of their physio-chemical characteristics, including viscosities.

<table>
<thead>
<tr>
<th>Crude Name</th>
<th>Density @15°C</th>
<th>API</th>
<th>Sulphur Content</th>
<th>Asphalt Content</th>
<th>Pour Point</th>
<th>Fraction Boiling &lt;2000°C as % Wt</th>
<th>Viscosity cst @30°C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oso Condensate</td>
<td>0.7965</td>
<td>46.0</td>
<td>0.046</td>
<td>&lt;0.05</td>
<td>-9</td>
<td>47.00</td>
<td>1.58</td>
</tr>
<tr>
<td>Brass River</td>
<td>0.8100</td>
<td>43.1</td>
<td>0.074</td>
<td>&lt;0.05</td>
<td>-6</td>
<td>41.90</td>
<td>2.14</td>
</tr>
<tr>
<td>Qua Iboe</td>
<td>0.8395</td>
<td>37.0</td>
<td>0.11</td>
<td>&lt;0.05</td>
<td>9</td>
<td>31.06</td>
<td>3.12</td>
</tr>
<tr>
<td>Pennington</td>
<td>0.8460</td>
<td>35.7</td>
<td>0.08</td>
<td>&lt;0.05</td>
<td>3</td>
<td>24.70</td>
<td>3.80</td>
</tr>
<tr>
<td>Escravos</td>
<td>0.8475</td>
<td>35.4</td>
<td>0.15</td>
<td>0.11</td>
<td>-6</td>
<td>30.40</td>
<td>4.24</td>
</tr>
<tr>
<td>Bonny Light</td>
<td>0.8495</td>
<td>35</td>
<td>0.13</td>
<td>0.07</td>
<td>-3</td>
<td>36.45</td>
<td>4.86</td>
</tr>
<tr>
<td>OPL 209</td>
<td>0.85</td>
<td>35</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Forcados Blend</td>
<td>0.8790</td>
<td>29.4</td>
<td>0.19</td>
<td>&lt;0.05</td>
<td>-6</td>
<td>15.95</td>
<td>8.50</td>
</tr>
<tr>
<td>Odudu</td>
<td>0.8830</td>
<td>28.7</td>
<td>0.19</td>
<td>&lt;0.05</td>
<td>-39</td>
<td>19.70</td>
<td>9.19</td>
</tr>
<tr>
<td>Bonny Medium</td>
<td>0.9000</td>
<td>25.6</td>
<td>0.21</td>
<td>&lt;0.05</td>
<td>-42</td>
<td>15.50</td>
<td>9.57</td>
</tr>
</tbody>
</table>

(Source: TOCON OSCP, 2005)

NOTES:

- Surface sea temperatures over the continental slope range between 260 to 290°C
- The fresh viscosities of all the above crudes are well below the 2000 cst threshold as identified by the efficiency licensing authorities in the UK and France (AEA and CEDRE respectively).
- Temperatures below the reference temperatures combined with weathering will cause the viscosity to increase but of the low emulsion potential of all Nigeria crude oil currently being produced the dispersant application window is likely to be open for at least 48h.

### TABLE 5B – Utility of Oil Data

<table>
<thead>
<tr>
<th>Oil Type</th>
<th>Density @15°C</th>
<th>Flash Point °C</th>
<th>Viscosity @30°C</th>
<th>Pour Point °C</th>
<th>Description and Strategy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aviation Gas</td>
<td>&lt;0.8</td>
<td>38-60</td>
<td>0.5@15°C</td>
<td>&lt;-40</td>
<td>Extremely Volatile; will evaporate completely in a very short time.</td>
</tr>
<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>Exclude all sources of ignition and leave to dissipate naturally</td>
</tr>
<tr>
<td>Diesel</td>
<td>0.8400</td>
<td>&gt;55</td>
<td>3.5</td>
<td>-5 to -30</td>
<td>A very low viscosity distillate fuel; easily evaporates in warm conditions.</td>
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<tr>
<td></td>
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<td></td>
<td></td>
<td></td>
<td>Evaporation time of less than 4hrs not usual.</td>
</tr>
<tr>
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<td></td>
<td>Spreads rapidly into windows (Ribbon of oil aligned to the wind direction) and forms a</td>
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<td></td>
<td></td>
<td>very thin slick. The only appreciable concentrations are at the down-wind leading edge of</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>the slick.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Encourage natural dispersion. If resistant, apply only approved dispersants.</td>
</tr>
<tr>
<td>Lubricating Oil</td>
<td>&gt;0.85</td>
<td>&gt;60</td>
<td>300</td>
<td>-15</td>
<td>A relatively viscous oil prone to forming light emulsions if the sea has sufficient mixing</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>energy (Guideline &gt;Beaufort 4). Does not evaporate readily and can require an active</td>
</tr>
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<td></td>
<td></td>
<td>response if natural weathering is failing.</td>
</tr>
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<td></td>
<td>Encourage natural dispersion. Treat with dispersant if necessary.</td>
</tr>
</tbody>
</table>
Hydraulic Oil | 0.880 | >60 | 100 | <0

A relatively viscous oil prone to emulsification if the sea has sufficient energy (Guideline > Beaufort 4). Does not evaporate readily and can require an active response if natural weathering is failing. Encourage natural dispersion. Treat with dispersant if necessary.

**SIXTH SCHEDULE**

*regulation 33 (4)*

**TABLE 2.1: INITIAL SCREENING OF SOIL/SEDIMENT BY GENERAL PARAMETERS**

<table>
<thead>
<tr>
<th>Parameter 1</th>
<th>Biological Treatment</th>
<th>Soil Washing</th>
<th>Solvent Extraction</th>
<th>Solidification/ Stabilization</th>
<th>Incineration</th>
<th>Thermal Desorption</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Clay content</strong></td>
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<tr>
<td>Low</td>
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<td>+</td>
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<tr>
<td>Medium</td>
<td>+</td>
<td>0</td>
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<td>+</td>
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<td>Low</td>
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<td>Medium</td>
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<td><strong>Particle Size</strong></td>
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<tr>
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<td>High</td>
<td>+</td>
<td>0</td>
<td>X</td>
<td>+</td>
<td>X</td>
<td>X</td>
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<tr>
<td><strong>Solid Content</strong></td>
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<tr>
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<td>High</td>
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<td>+</td>
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<td>+</td>
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</tr>
<tr>
<td><strong>Waste</strong></td>
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<tr>
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</tr>
<tr>
<td>Parameter 1</td>
<td>Biological Treatment</td>
<td>Soil Washing</td>
<td>Solvent Extraction</td>
<td>Solidification/ Stabilization</td>
<td>Incineration</td>
<td>Thermal Desorption</td>
</tr>
<tr>
<td>---------------------</td>
<td>----------------------</td>
<td>--------------</td>
<td>--------------------</td>
<td>--------------------------------</td>
<td>--------------</td>
<td>--------------------</td>
</tr>
<tr>
<td>Clay content</td>
<td>No known effect</td>
<td>Impedes containment removal</td>
<td>Affect solvent use and efficiency</td>
<td>No known effect</td>
<td>No known effect</td>
<td>Can affect removal efficiency</td>
</tr>
<tr>
<td>Humic content</td>
<td>No apparent effect</td>
<td>Inhibits containment</td>
<td>No apparent No effect</td>
<td>If &gt;45 (WT) can affect bonding</td>
<td>No effect</td>
<td>No known effect</td>
</tr>
<tr>
<td>Metals Content</td>
<td>Can be toxic to micro-organism</td>
<td>Does not remove insoluble metals</td>
<td>Does not remove leachable metals</td>
<td>Does not remove leachable metals</td>
<td>Volatile metals can vaporize</td>
<td>Volatile metals can vaporize</td>
</tr>
<tr>
<td>Particle Size</td>
<td>If non-uniform can affect activity</td>
<td>Fine difficult to remove from wash</td>
<td>Most be &lt;1/4</td>
<td>If &lt;200 mesh or &gt; or &lt;1/4 can affect bonding</td>
<td></td>
<td></td>
</tr>
<tr>
<td>PH</td>
<td>Most effective range 4.5-8.5</td>
<td>Affects choice of reagent</td>
<td>Affect choice of solvent</td>
<td>PH is automatically affected</td>
<td>If low, can cause acid attack</td>
<td>If outside 5 to 11 can cause corrosion</td>
</tr>
<tr>
<td>Salinity</td>
<td>Micro-organisms must be adapted to high salt concentration</td>
<td>No apparent affect</td>
<td>No apparent affect</td>
<td>May affect bonding</td>
<td>Can be carried through process</td>
<td>Can be carried through process</td>
</tr>
<tr>
<td>Silt Content</td>
<td>No apparent affect</td>
<td>Affects efficiency</td>
<td>Affects efficiency</td>
<td>May affect bonding</td>
<td>Can be carried through process</td>
<td>Can be carried through process</td>
</tr>
<tr>
<td>Solid Content</td>
<td>Depends on the process type</td>
<td>No apparent affect</td>
<td>No apparent affect</td>
<td>If &gt;15% requires higher the agent use</td>
<td>Most efficient as content increases</td>
<td>Most efficient as content increases</td>
</tr>
</tbody>
</table>
Waste Composition | If Heterogeneous can affect sustained activity | Affect waste solution formulation | Affect waste solution formulation | If Heterogeneous can affect bonding | Can affect energy requirements if heterogeneous | Can affect energy requirements if heterogeneous
---|---|---|---|---|---|---
Water Content | Content outside 40 – 80% inhibits activity | No effect | No effect | No known effect | If high, affect feed handling and requirement | Affects energy Used energy

**EIGHTH SCHEDULE**

*Regulation 33(5)*

*Defining the Spill Problem in Site Evaluation*

Operators shall carry out a thorough analysis of the problem. A thorough investigation may avert unnecessary remediation costs. The following questions shall be asked and answers provided.

What is the history of the site?
Thorough historical assessment of the site will aid in identifying and locating the contaminant(s). It may also aid in assessing responsibility for the contamination.

Possible Impacts?
Contaminated site may affect many people and other living organisms.

Determine both the pathway of contamination and all possible receptors of contamination. Answers shall be provided for the following important questions.
Is the site near an existing tank farm, flow station, pipeline, oil well or other facility?
Is it near where a tank farm or storage site previously existed?
Has there ever been a spill on or near the property?
What is the length, width and depth of the contaminated area?
What is the soil or water type?
Where is the surface and ground water?
How did the contamination enter the site?
Did it enter the ground water?
Will it affect people through either toxic vapors or soil contamination?
Could there be any effects on vegetation, wildlife or domestic animals?
How will the contamination affect adjacent sites?
What will the site be used for in the future?
Are there any special factors relating to public use of the area?
Is the site commercial, agricultural or residential?

**NINTH SCHEDULE**

**ENVIRONMENTAL SENSITIVITY INDEX (ESI) MAPPING**

<table>
<thead>
<tr>
<th>Colure</th>
<th>Value</th>
<th>Sensitivity in Decreasing Order</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>10.0</td>
<td>Mangrove</td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>Mixed Sediments Beach</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>Medium Coarse Beach</td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>Fine Sand Beach</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>Eroding Mud Beach</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>Exposed Seawalls/Riprap</td>
</tr>
</tbody>
</table>
TABLE 6B - Coastal and Interior Habitats

<table>
<thead>
<tr>
<th>Colure</th>
<th>Value</th>
<th>Sensitivity in Decreasing Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.3</td>
<td></td>
<td>Mangrove Full Grown/Tall</td>
</tr>
<tr>
<td>10.2</td>
<td></td>
<td>Mangrove Degraded; Nypha Palm</td>
</tr>
<tr>
<td>10.1</td>
<td></td>
<td>Mangrove Brackish: Highly stressed</td>
</tr>
<tr>
<td>9</td>
<td></td>
<td>Fresh Water Wetlands - Raphia Complex</td>
</tr>
<tr>
<td>8</td>
<td></td>
<td>Fresh Water Wetlands - Degraded</td>
</tr>
<tr>
<td>7</td>
<td></td>
<td>Grasslands</td>
</tr>
<tr>
<td>6</td>
<td></td>
<td>Saline Flats</td>
</tr>
<tr>
<td>3.1</td>
<td></td>
<td>Abandoned Beach Ridge</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td>Barrier Sand</td>
</tr>
</tbody>
</table>

TENTH SCHEDULE

GUIDELINES FOR THE STOCKING AND LISTING OF RESPONSE EQUIPMENT AND MATERIALS

Owners/operators shall stock a minimum quantity of functional equipment and materials at any point in time that can be used for the effective combat of minor spills (tier 1) or for the first line of defence for bigger spills. The stock shall consist of the following:

1. **BOOMS**
   These shall be described in accordance with the following characteristics
   — Types
   — Total length
   — Draft/freeboard length and weight per unit
   — Design or intended use (e.g. use in open sea or sheltered water operations)
   — Mobilization time Means of transportation required
   — Available transportation
   — Estimated procurement cost/meter
   
The following characteristics shall be specified.
   — Types, total numbers
   — Weight and size per unit
   — Design or intended use Mobilization time
   — Means of transportation required
   — Available transportation
   — Estimated procurement cost
   — Estimated daily Rental Cost

2. **RECOVERED OIL STORAGE EQUIPMENT**
   The following characteristics shall be specified-
   — Types, total numbers/capacity
   — Weight and size per/unit
   — Additional support equipment necessary
   — Design or intended use
   — Mobilization time
   — Means of transportation required
   — Available transportation
   — Personnel for handling
   — Estimated procurement cost
   — Estimated daily rental cost

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3. **SPECIALIZED SHORELINE CLEAN-UP EQUIPMENT (WHEN APPLICABLE)**
The following characteristics shall be specified-
- Types
- Weight and size per unit
- Additional Support equipment necessary
- Design or intended use
- Mobilization time
- Means of transportation required
- Available transportation
- Personnel for handling
- Estimated procurement cost
- Estimated daily rental cost
- Types, total stock of each type
- Method of Application
- Estimated price
- Potable equipment (on bond and ashore)
- Types of emission
- First Aid Kits

4. **VESSELS (SPECIALIZED AND OTHERS)**
The following characteristics shall be specified-
- Type, length, breadth, speed
- Onboard storage capacity
- Application (open sea or sheltered waters)
- Mobilization time
- Personnel for handling
- Estimated daily rental cost

5. **AIRCRAFT (WHEN APPLICABLE)**
The following characteristics shall be specified-
- Type, -rotary/fixed wing
- Operating speed
- Load capacity
- Mobilization time
- Estimated daily rental cost

6. **DISPERSANTS**
The following characteristics shall be specified-
- System of storage
- Approval Data (Reference Number)
- Toxicity, Efficiency and biodegradability data
- Means of transportation
- Available transportation
- Expiration date(s) per dispersant(s)

7. **LIGHTERING EQUIPMENT**
The following characteristics shall be specified-
- Pumps; total stocks by type/capacity and weight including prime mover
- Hoses; length, diameter and weight/section
- Fenders; total stocks by type/size and weight
- Personnel for handling
- Estimated procurement cost
- Estimated daily rental cost

8. **COMMUNICATIONS AND AUXILIARY EQUIPMENT**
- Equipment on Board
- Frequencies
- Power source
- Signalling lamps
- Estimated Procurement Cost
- Estimated daily Rental Cost
9. **OTHERS**
   - Lighting Equipment
   - Emergency Safety Equipment

ELEVENTH SCHEDULE

RESULTS OF LABORATORY ANALYSES FOR SAMPLES COLLECTED FROM IMPACTED ENVIRONMENT MEDIUM/MEDIA

PARAMETERS RESULT OF IMPACTED ENVIRONMENT (MEDIUM/ MEDIA)
SEDIMENT/SOIL SURFACE WAFER UNDERGROUND

WATER
Sample control
pH
Polyaromatic Hydrocarbons
- Benzene
- Toluene
- Ethyl-Benzene
- Xylene

THC
Sulphide

COD
Lead Nickel
Vanadium
Chromium
(Total)
(Attach Sample Location Map)

OPERATOR/AGENCY/SPILLER/STATE GOVERNMENT/COMMUNITY CLEAN-UP SUPERVISOR

5. COMMENTS/DISCUSSION
6. RECOMMENDATION
7. CONCLUSION (INDICATE WHETHER THE CLEAN-UP IS CERTIFIED:
   (i) SATISFACTORY [ ]
   (ii) NOT SATISFACTORY [ ]
8. SIGNATURES/DATE

TWELVETH SCHEDULE

BACKGROUND

1. **INTRODUCTION**
Oil spill incidents are some of the most challenging environmental consequences of oil exploration, production and transportation. This phenomenon has the potential to impact the environment and socio-economic livelihood of the people e.g. farmlands, aquatic life, and water quality.

As a result of the above, it becomes necessary to develop guidelines and standards for the recovery of oil spill, clean-up and restoration of impacted sites to their original status as well as procedures for damage assessment for the
purpose of compensation. This will ensure standardization of procedures employed by operators with regards to its environmental implication/impacts in oil spill recovery, clean-up and remediation as well as damage assessment.

The National Oil Spill Detection and Response Agency (NOSDRA), a parasternal under the Federal Ministry of Environment, was established by the National Oil Spill Detection and Response Agency (Establishment) Act No. 15, 2006, as the institutional framework for the implementation of the National Oil Spill Contingency Plan (NOSCP).

The Agency is vested with the statutory responsibility of co-ordinating the management of oil spill incidents with respect to clean up, remediation and damage assessment.

The vision of the Agency is to create, nurture and sustain a zero tolerance oil spill incident in the Nigerian Environment.

The Mission of the Agency is to restore and preserve the environment by ensuring best oil field, storage and transmission practices in exploration, production and use of oil in the quest to achieve sustainable development in Nigeria.

The main objective of the Agency is to ensure that all operators and stakeholders in the petroleum sector are provided with relevant regulations for achieving uniform standard of practice and enforcement in oil spill recovery, clean up, remediation and damage assessment in the sector.

The objectives of the Agency are to:
- To establish a viable national operational organization that ensures a safe, timely, effective and appropriate response to major or disastrous oil pollution,
- To identify high-risk as well as priority areas for protection and clean up,
- To establish the mechanism to monitor and assist where expedient direct the response, including the capability to mobilize the necessary resources to save lives, protect threatened environment, and clean-up to the best practical extent of the impacted site,
- To maximize the effective use of the available facilities and resources of corporate bodies, their international connections and on spill co-operatives i.e. Clean Nigeria Associates (CNA) in implementing appropriate spill response,
- To ensure funding, appropriate and sufficient pre-positioned pollution combating equipment and materials, as well as functional communication network system required for effective response to major CII pollution,
- To ensure a programme of activation, training and drill exercises to ensure readiness to oil pollution pre-preparedness and the management of operational personnel,
- To co-operate and provide advisory services, technical support and equipment for purposes of responding to major oil pollution incident in the West African sub-region upon request by any neighbouring country, particularly where a mitt of the Nigerian territory may be threatened,
- To provide support for Research and Development (R&D) in the local development of methods, materials and equipment for oil spill detection and response,
- To determine and preposition vital combat equipment at most strategic areas for rapid response; and
- To carry out such other activities as are necessary or expedient for the full discharge of its functions and the execution of the Plan.

THIRTEENTH SCHEDULE

GLOSSARY OF TERMS/ACRONYMS

| ADR | Alternative Dispute Resolution |
| Adequate | The nature of the facility will depend on the type of terminal and the nature of the use of the terminal by visiting ships. |
| Agency | National Oil Spill Detection and Response Agency |
| ANZECC | Australian and New Zealand Environment and Conservation Council, made up of the Environment and Conservation Ministers of the Commonwealth of Australia, its States and Territories and New Zealand. |
| AQIS | Australian Quarantine and Inspection Service. |
| AST | Above Ground Storage Tanks. |
Baseline  The lowest astronomical tide along tile coast hut it includes straight lines enclosing bays and indentations that are not bays and straight baselines that depart from the coastline.

BOD  Biological Oxygen Demand.

BBU  Bitumen Blowing Unit.

Cargo handling  The loading, discharging and transferring of cargo.

Cargo Record Book  This is a document that is carried and maintained on ships that carry oil and noxious liquid substances in bulk as cargo. The hook needs to be completed on a tank-to-tank basis when various operations take place in the ship. These specified operations include disposal of residues to reception facilities ashore.

CNA  Clean Nigeria Associates.

Crude oil  A naturally occurring petroleum liquid consisting mainly of different types of hydrocarbons and containing varying proportions of other substances; unrefined petroleum.

DPR  Department of Petroleum Resources.

EIA  Environmental Impact Assessment.

ESA  Environmental Site Assessment.

ESI  Environmental Sensitivity Index.

FCCU  Fluid Catalytic Cracking Unit.

EMEnv’  Federal Ministry of Environment.

EMOT  Federal Ministry of Transport.

Harmful substances  These include any substance which, if it introduced into the sea, is likely to create hazards to human health, to harm living resources and marine, life and to damage amenities or to interfere with other proper uses of the sea.

Hazardous substances  These are also harmful substances but are more dangerous because of their toxicity, flammability, or other physical and chemical characteristics.

Hold sweepings  The residues of dry cargo to be removed after normal discharge.

IMO  International Maritime Organization.

LC  Langmuir Circulation.


MARPOL Convention  International Convention for the Prevention of Pollution from Ships 1973 as modified in 1978. This important international agreement regulates operational discharges from ships and also obliges governments which agree to the Convention to ensure that adequate waste reception facilities are provided ports boat harbours and marine and bulk liquid terminals.

Master  The person in charge of a vessel.

MEPC  Marine Environment Protection Committee of the IMO.

MOSM  Multiphase Oil Spill Model.

VEMA  National Emergency Management Agency.

NESREA  National Environmental Standards, Regulatory and Enforcement Agency.

NIMASA  Nigerian Maritime Administration and Safety Agency.

NIOMR  Nigerian Institute for Oceanography and Marine Research.

NIWA  National Inland Waterways Authority.

NNPC  Nigerian National Petroleum Corporation.

NOAA  National Oceanographic and Atmospheric Administration of the US.
NOSDRA National Oil Spill Detection and Response Agency.
NOSM Nigerian Oil Spill Model.
NPA Nigerian Ports Authority.

Noxious liquid substance
A “noxious” substance is a substance which if discharge into the sea would present a hazard to either marine resources or human health or cause harm to amenities or other legitimate uses of the sea.

Oily mixtures
A mixture with any oil content. See also “Oily wastes”

Oily Waste
Oily wastes are either undiluted oil or water from a ship that is contaminated by oil. It can include waste from machinery spaces of ships such as residues from fuel oils and lubricating oils and also oily water in ships’ bilges. Oily wastes can also include contaminated ballast water and water that has been used to wash tanks of tankers. Oily wastes can also contain detergents and other chemical additives.

OPTS Oil Producers’ Trade Section
OSRL Oil Spill Response Limited

Petroleum Crude oil and liquid hydrocarbon products derived from it such as the various types of fuel and diesel oils.

PPE Personal Protective Equipment

Reception facilities Fundamentally a reception facility is any system of even any container that can receive ship-generated residues and mixtures containing oil, noxious liquids, sewage and garbage.

Residue Any substance, for example a noxious liquid substance, that remains on board the ship after discharge and/or washing and is to the disposed.

Ship This means a vessel of any type (including all boats) whatsoever operating in the marine environment.

Ship’s Agent A person or business usually appointed by a ship owner or person in charge of a ship to act on behalf of the ship in various matters in a port.

SLAR Side-Looking Airborne Radar

Slop tank A tank on a ship used to store oily waste for later environmentally acceptable disposal.

Slops Residual oil which has been transferred to a collecting tank (a “slop tank: on a ship). This is usually mixed with other recovered oils and/or water.

Sludge Residues from various oils and chemical cargoes after discharge and sewage treatment systems.

Tanker A ship designed to carry liquids in bulk, whether these liquids are petroleum cargo, chemicals, agricultural oils or other liquids.

Terminal A place in a port where ships are berthed or moored for the purpose of handling cargo or for other purpose such as bunkering or repairs.

THC Total Hydrocarbon Content.

Undue delay Undue delay occurs when a ship is unable to proceed because of formalities or unavailability of reception facilities where the ship is berthed.

USEPA United States Environmental Protection Agency

UST Underground Storage Tank

VOC Volatile Organic Carbon

Waste Management This is a systematic approach of receiving and treatment of ship generated wastes.

Made at Abuja this 26th day of May, 2011

Peter IDABOR
Director-General and Chief Executive
National Oil Spill Detection and Response Agency.
ORDER
In exercise of the powers conferred upon me by Section 7, subsection (2) of the Oil Terminal Dues Act and all other powers enabling me in that behalf, I, UMARU MUSA YAR’ADUA, President of the Federal Republic of Nigeria and Minister of Energy hereby make the following order:

1. (1) There is hereby established an oil terminal to be known as Agbami Establish Oil Terminal, otherwise referred to in this Order as “The Oil Terminal”. Men to the

(2) The Agbami Oil Terminal shall lie wholly in the Floating, Production, Storage and Offloading, otherwise referred to as FPSO, safety exclusion zone, located offshore of the southern part of Nigeria, within the waters of the Exclusive Economic Zone of Nigeria and delineated as described in the Schedule to the Order.

(3) The Agbami Oil Terminal shall consist of —
   (i) a spread-moored Floating, Production, Storage, and Offloading (FPSO) vessel, for processing and storing crude oil, and
   (ii) a buoy, for offloading crude oil to tankers for transportation to market

(4) Agbami FPSO shall from time to time conduct Tandem Export Offloading operations, utilizing Export tankers, moored in a tandem configuration from the stem of Agbami FPSO.

2. This order may be cited as the Agbami Oil Terminal (Establishment) Citation Order, 2008.

SCHEDULE

Delineation of the Agbami Oil Terminal

1. (1) A safety exclusion zone of 1500 meters radius shall exist for the Agbami FPSO, comprising of a circular area, centered on Agbami FPSO in the position designated below +/- 15 meters.

(2) Agbami FPSO shall be located in an approximate position centered at:
   Latitude: 03 27’ 49.37” North
   Longitude: 005 33’ 39.78” East
   Northing: 383 234.0
   Easting: 784 558.0

(3) Agbami FPSO shall be permanently moored by 12 anchors on an approximate heading of 198” true +/- 0.5”.
   Two submerged steel oil offloading lines shall run from the Agbami FPSO to a Single Point Mooring (SPM) buoy, and secured by 9 anchors. A circular safety exclusion zone of 1500 meters radius shall exist around the SPM, centered in a position specified below:
   SPM safety zone shall be centered in an approximate position of:
   Latitude: 03 28’ 52.27” North
   Longitude: 005 33’ 49.18” East
   Northing: 385 168.0
   Easting: 784 843.0
2.—(1) The distance for the SPM safety zone shall be calculated to accommodate export tanker mooring arrangements as follows:
(a) 100 meters Mooring Hawser;
(b) 350 meters Tanker;
(c) 500 meters Tug Line;
(d) 50 meters Tug Length; and
(e) 500 meters Safety Zone.
   \textbf{Total Distance} = 1500 meters

(2) Distance from the FPSO to SPM is approximately 1950 meters. Made at Abuja this 15th day of August 2008.

\textbf{UMARU MUSA YAR'ADUA, GCFR}
\textit{President of the Federal Republic of Nigeria/Minister of Energy}
OIL TERMINAL DUES ACT  
(Cap. 08, LFN, 2004)  

Okoro Oil Terminal (Establishment) Order, 2008

In exercise of the powers conferred upon me by Section 7, subsection (2) of the Oil Terminal Dues Act and all other powers enabling me in that behalf, I, UMARU MUSA YAR’ADUA, President of the Federal Republic of Nigeria and Minister of Energy hereby make the following order:

1. — (1). There is hereby established, an oil terminal, to be known as Establish Okoro Oil Terminal, otherwise referred to in this Order as “The Oil Terminal”.

(2). Schedule: The Okoro Oil Terminal shall lie wholly in the Floating, Production, Storage and Offloading, otherwise referred to as FPSO, safety exclusion zone, located offshore of the southern part of Nigeria, within the waters of the Exclusive Economic Zone of Nigeria and delineated as described in the Schedule, to the Order.

(3). The Okoro Oil Terminal shall consist of:
   (i) A spread-moored Floating, Production, Storage, and Offloading (FPSO) vessel, for processing and storing crude oil, and
   (ii) a buoy, for offloading crude oil to tankers for transportation to market.
   (iii) Okoro FPSO shall from time to time conduct Tandem Export Offloading operations, utilizing Export tankers, moored in a tandem configuration from the stem of Okoro FPSO.

2. This order may be cited as the Okoro Oil Terminal (Establishment) Order, 2008.

SCHEDULE

1. (1) A safety exclusion zone of 1500meters radius shall exist for the Okoro FPSO, comprising of a circular area, centered on Okoro FPSO in the position designated below +/- 15 meters.
   (2) Okoro FPSO shall be located, in an approximate position centered at:
      Latitude: 04° 24’ 15.61” North
      Longitude: 07° 49’ 44.39” East
      Northing: 486 923
      Easting: 370 070.

(3) Okoro FPSO shall be permanently moored by 10 anchors on an approximate heading of 212.5° True North = +/- 0.5°.

(4) Two submerged steel oil offloading lines shall run from the Okoro FPSO to an Off take Tanker, and secured by a mooring hawser. A circular safety exclusion zone of 1500 meters radius shall exist around the Off take Tanker.

2. (1) The distance for the Okoro FPSO, safety exclusion zone shall be calculated to accommodate export tanker mooring arrangements as follows:
   (a) 70 meters Mooring Hawser;
   (b) 250 meters Tanker;
   (c) 130 meters Tug Line;
   (d) 50 meters Tug Length; and
   (e) 1500 meters Safety Zone.
   Total Distance = 2000 meters.

Made at Abuja this 26th day of August, 2008.

UMARU MUSA YARADUA, GCFR
President of the Federal Republic of Nigeria/Minister of Energy
OIL TERMINAL DUES ACT
(Cap. 339 LFN)
Bonga Oil Terminal (Establishment) Order 2005

Commencement [2th December, 2005]

In exercise of the powers conferred upon me by sub-section (2) of section 7 of the Oil Terminal Dues Act and of all other powers enabling me in that behalf. I, Olusegun Obasanjo, President of the Federal Government of Nigeria/Minister of Petroleum Resources hereby make the following Order:

1.— (1) The Oil Terminal known and referred to as “Bonga Oil Terminal” is for the purpose of the Oil Terminal Dues Act, hereby established as an Oil Terminal within the meaning of that Act.
(2) The said Bonga Oil Terminal shall comprise of the circular area, lying and situated offshore of the southern part of Nigeria and delineated as described in the Schedule of this Order.
(3) In relation to the oil terminal established by the sub-paragraph (1) of this paragraph, there shall be—
   (i) a floating production storage and offloading (FPSO) vessel called “Bonga: FPSO” which shall be anchored and lie wholly in the described area within the waters of the Exclusive Economic Zone of Nigeria, and
   (ii) an oil exporting shuttle tanker which shall be moored to the single point mooring (SPM) from time to time for the purpose of loading crude oil or in a tandem configuration to the FPSO as a back-up during emergency.

2. This Order may be cited as the Bonga Oil Terminal (Establishment) Order 2005.

SCHEDULE

Delineation of The Bonga Terminal

For the FPSO, the Safety Zone should encompass 500 metres off the hull and allow for tandem offloading, where export tankers can be moored to the stem of the FPSO. The Safety Zone is a rectangle 500 metres in excess of the dimensions of the combined FPSO, hawser and export tanker. In this case the length shall be 500 metres safety zone +300 meters FPSO +100 meters hawser +300 metres export tanker +500 meters safety zone making a total length of 1,700 metres. The width shall be 500 metres safety zone+60 metres beam+500 metres safety zone making a total width of 1,060 metres. The rectangle shall be centered on a nominal position 50 metres astern of the FPSO i.e. halfway between the FPSO and export tanker.

The Safety Zone is a rectangle of 1,700 metres by 1,060 metres lying in the following co-ordinates:

*FPSO Position: The position is defined in Universal Transverse Mercator (UTM) zone 31, Clarke 1880, Minna Datum, with Central Meridian a’s3 degrees East:
  N 503 720.46m
  E 679375 .05m
  Latitude: 4°33’00.592”N
  Longitude: 4°37’00.592”E

*PPSO Heading: Relative to True North
  184.5 degrees

For the SPM, the Safety Zone shall be a 900-metres radius around the center of the SPM, this being calculated as 100 metres hawser+300 metres export tanker+500 metres safety zone and lying at the following co-ordinates:

*SPM Centre Position: The position is defined in UTM 31, Clarke 1880, Minna datum with CM of 3 degrees East
  N 504473, 12
  E 681145.20
  Latitude: 4°33’45.329”N
  Longitude: 4°37’58.072”E

Made at Abuja this, 12th day of December, 2005

OLUSEGUN OBASANJO
President of the Federal Republic of Nigeria/Minister of Petroleum Resources
1. Establishment of Bonny Oil Terminal

(1) The Oil terminal known and referred to as the “Bonny Offshore Oil Terminal” is, for the purposes of the Oil Terminal Dues Act hereby established as an oil terminal within the meaning of that Act.

(2) The said Bonny Offshore Oil Terminal shall comprise the two areas being areas of the oil terminal which are hereby also established, lying and situated on Bonny Island and offshore thereof and delineated and described as follows—

(a) Parcel A: All that parcel of land at Bonny in BONNY Division of the Rivers State of Nigeria, containing an area of approximately 1354 acres as shown on Plan No. Ban/57/58, Drawing No. 7224, the boundaries of which are described below —

<table>
<thead>
<tr>
<th>From</th>
<th>Bearing</th>
<th>Length</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>P</td>
<td>126° 57'</td>
<td>600ft. (182.9m)</td>
<td>ED 5166</td>
</tr>
<tr>
<td>ED 5166</td>
<td>126° 57'</td>
<td>951ft. (289.9m)</td>
<td>ED 5167</td>
</tr>
<tr>
<td>ED 5167</td>
<td>127° 03'</td>
<td>1012ft. (308.4m)</td>
<td>ED 5168</td>
</tr>
<tr>
<td>ED 5168</td>
<td>127° 01'</td>
<td>529ft. (161.2m)</td>
<td>ED 5169</td>
</tr>
<tr>
<td>ED 5169</td>
<td>126° 53'</td>
<td>782ft. (238.4m)</td>
<td>ED 5170</td>
</tr>
<tr>
<td>ED 5170</td>
<td>126° 55'</td>
<td>575ft. (175.2m)</td>
<td>ED 5171</td>
</tr>
<tr>
<td>ED 5171</td>
<td>126° 51'</td>
<td>1005ft. (306.3m)</td>
<td>ED 5172</td>
</tr>
<tr>
<td>ED 5172</td>
<td>127° 15'</td>
<td>746ft. (227.4m)</td>
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</tr>
<tr>
<td>ED 5173</td>
<td>126° 42'</td>
<td>915ft. (278.9m)</td>
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</tr>
<tr>
<td>ED 5174</td>
<td>179° 52'</td>
<td>1209ft. (368.5m)</td>
<td>ED 5175</td>
</tr>
<tr>
<td>ED 5175</td>
<td>179° 50'</td>
<td>1111ft. (338.6m)</td>
<td>ED 5176</td>
</tr>
<tr>
<td>ED 5176</td>
<td>180° 00'</td>
<td>1062ft. (323.7m)</td>
<td>ED 5177</td>
</tr>
<tr>
<td>ED 5177</td>
<td>179° 53'</td>
<td>1329ft. (405.1m)</td>
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</tr>
<tr>
<td>ED 5179</td>
<td>269° 57'</td>
<td>1045ft. (318.5m)</td>
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</tr>
<tr>
<td>ED 5180</td>
<td>270° 04'</td>
<td>1091ft. (332.5m)</td>
<td>ED 5181</td>
</tr>
<tr>
<td>ED 5181</td>
<td>269° 52'</td>
<td>1086ft. (331.0m)</td>
<td>ED 5182</td>
</tr>
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<td>ED 5182</td>
<td>269° 50'</td>
<td>1213ft. (369.7m)</td>
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<td>ED 5183</td>
<td>270° 03'</td>
<td>983ft. (299.6m)</td>
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</tr>
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<td>ED 5184</td>
<td>305° 18'</td>
<td>1015ft. (309.4m)</td>
<td>ED 5185</td>
</tr>
<tr>
<td>ED 5185</td>
<td>305° 08'</td>
<td>1063ft. (324.0m)</td>
<td>ED 5186</td>
</tr>
<tr>
<td>ED 5186</td>
<td>306° 35'</td>
<td>1063ft. (324.0m)</td>
<td>ED 5187</td>
</tr>
<tr>
<td>ED 5187</td>
<td>306° 54'</td>
<td>916ft. (297.2m)</td>
<td>ED 5188</td>
</tr>
<tr>
<td>ED 5188</td>
<td>306° 53'</td>
<td>1000ft. (306.6m)</td>
<td>ED 5189</td>
</tr>
<tr>
<td>ED 5189</td>
<td>306° 53'</td>
<td>720ft. (219.4m)</td>
<td>Q</td>
</tr>
<tr>
<td>Q</td>
<td>37° 46'</td>
<td>7096ft. (2162.8m)</td>
<td>P</td>
</tr>
</tbody>
</table>

(continues on next page)
All property beacons are concrete pillars. All bearings and lengths are approximate and all bearings are referred to Nigerian Grid North;

(b) Parcel B: All that water off the coast of the Rivers State of Nigeria containing an area of approximately 864.5 acres (349.8 Hectares) as shown on plan H-12181 the boundaries of which are described below—

Starting at a point BLO 8 which lies on a bearing of 1560 34', distant 89 643.8ft. (27 323.4m) from Bonny Lighthouse, the Nigerian National Grid Co-ordinates of which are—

Northings . . . 146 715.9ft (44 718.6m)
Eastings . . . 1703 480.2ft (519 216.1m)

(Nigerian 3-belt projection system - Mid Belt) the boundaries run in straight lines, the bearings and lengths of which are as follows—

<table>
<thead>
<tr>
<th>From</th>
<th>Bearing</th>
<th>Length</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>BLO 8</td>
<td>348° 10’</td>
<td>6857ft. (2090.0m)</td>
<td>BLO 9</td>
</tr>
<tr>
<td>BLO 9</td>
<td>78° 10’</td>
<td>2821ft. (860.0m)</td>
<td>BLO 10</td>
</tr>
<tr>
<td>BLO 10</td>
<td>168° 10’</td>
<td>6857ft. (2090.0m)</td>
<td>BLO 11</td>
</tr>
<tr>
<td>BLO 11</td>
<td>78° 10’</td>
<td>2329ft. (710.0m)</td>
<td>BLO 12</td>
</tr>
<tr>
<td>BLO 12</td>
<td>168° 10’</td>
<td>2296ft. (700.0m)</td>
<td>BLO 13</td>
</tr>
<tr>
<td>BLO 13</td>
<td>258° 10’</td>
<td>7972ft. (2430.0m)</td>
<td>BLO 14</td>
</tr>
<tr>
<td>BLO 14</td>
<td>348° 10’</td>
<td>2296ft. (700.0m)</td>
<td>BLO 15</td>
</tr>
<tr>
<td>BLO 15</td>
<td>780° 10’</td>
<td>2821ft. (860.0m)</td>
<td>BLO 8</td>
</tr>
</tbody>
</table>

(the starting point).

All bearings and distances are approximate, and all bearings refer to Nigerian Grid North.

2. **Short title**

This Order may be cited as the Bonny Offshore Oil Terminal (Establishment) Order.
1. **Establishment of Brass Oil Terminal**

(1) The oil terminal known and referred to as the “Brass Oil Terminal” is for the purposes of the Oil Terminal Dues Act hereby established as an oil terminal within the meaning of that Act.

(2) The said Brass Oil Terminal shall comprise the two areas being areas of the oil terminal which are hereby also established, lying and situated near Brass and offshore of the River Brass and delineated and described as follows—

(a) **Parcel A (Landward Area):** The area covered by the landward portion of the terminal shall comprise an area of about 495 acres, located on the eastern side of the Brass River mouth and situated near Town-Brass in Brass Division of the Rivers State of Nigeria. The area is described in detail with the dimensions and abutments thereof shown on Nigerian Agip Oil Company Ltd. Dwg. No. A—34482, the boundaries of which are described below—

Starting at a concrete pillar marked EP.3101, the geographical co-ordinates of which are 04° 17’ 30” Lat. N and 06° 13’ 30” Long. E, the boundaries run in straight lines, the bearings and lengths of which are as follows—

<table>
<thead>
<tr>
<th>From</th>
<th>Bearing</th>
<th>Length</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>EP.3101</td>
<td>12° 50’</td>
<td>100.00m</td>
<td>PEG.2</td>
</tr>
<tr>
<td>PEG.2</td>
<td>56° 44’</td>
<td>78.00m</td>
<td>PEG.3</td>
</tr>
<tr>
<td>PEG.3</td>
<td>14° 46’</td>
<td>157.00m</td>
<td>PEG.4</td>
</tr>
<tr>
<td>PEG.4</td>
<td>22° 11’</td>
<td>116.00m</td>
<td>PEG.5</td>
</tr>
<tr>
<td>PEG.5</td>
<td>52° 18’</td>
<td>44.00m</td>
<td>EP.3166</td>
</tr>
<tr>
<td>EP.3166</td>
<td>121° 38’</td>
<td>192.00m</td>
<td>EP.3167</td>
</tr>
<tr>
<td>EP.3167</td>
<td>66° 41’</td>
<td>78.00m</td>
<td>EP.3168</td>
</tr>
<tr>
<td>EP.3168</td>
<td>177° 57’</td>
<td>190.00m</td>
<td>EP.3169</td>
</tr>
<tr>
<td>EP.3169</td>
<td>134° 14’</td>
<td>173.00m</td>
<td>EP.3170</td>
</tr>
<tr>
<td>EP.3170</td>
<td>110° 26’</td>
<td>193.00m</td>
<td>EP.3171</td>
</tr>
<tr>
<td>EP.3171</td>
<td>99° 44’</td>
<td>187.00m</td>
<td>EP.3172</td>
</tr>
<tr>
<td>EP.3172</td>
<td>100° 21’</td>
<td>118.00m</td>
<td>EP.3173</td>
</tr>
<tr>
<td>EP.3173</td>
<td>100° 33’</td>
<td>230.00m</td>
<td>EP.3174</td>
</tr>
<tr>
<td>EP.3174</td>
<td>102° 31’</td>
<td>235.00m</td>
<td>EP.3175</td>
</tr>
<tr>
<td>EP.3175</td>
<td>120° 40’</td>
<td>171.00m</td>
<td>EP.3176</td>
</tr>
<tr>
<td>EP.3176</td>
<td>144° 15’</td>
<td>64.00m</td>
<td>EP.3113</td>
</tr>
<tr>
<td>EP.3113</td>
<td>187° 52’</td>
<td>379.00m</td>
<td>T.7</td>
</tr>
<tr>
<td>T.7</td>
<td>97° 38’</td>
<td>314.00m</td>
<td>T.8</td>
</tr>
<tr>
<td>T.8</td>
<td>187° 28’</td>
<td>312.00m</td>
<td>T.9</td>
</tr>
<tr>
<td>T.9</td>
<td>97° 26’</td>
<td>358.00m</td>
<td>T.10</td>
</tr>
<tr>
<td>T.10</td>
<td>187° 25’</td>
<td>360.00m</td>
<td>T.11</td>
</tr>
<tr>
<td>T.11</td>
<td>187° 34’</td>
<td>59.00m</td>
<td>PEG Y</td>
</tr>
<tr>
<td>PEG Y</td>
<td>271° 24’</td>
<td>111.00m</td>
<td>6</td>
</tr>
<tr>
<td>6</td>
<td>271° 32’</td>
<td>268.00m</td>
<td>7</td>
</tr>
<tr>
<td>7</td>
<td>285° 09’</td>
<td>280.00m</td>
<td>8</td>
</tr>
<tr>
<td>8</td>
<td>306° 04’</td>
<td>246.00m</td>
<td>9</td>
</tr>
</tbody>
</table>
All property beacons are concrete pillars.

All bearings and lengths are approximate and all bearings are referred to the National Grid North;

(b) Parcel B (Seaward Area): All that water off the coast of the Rivers State of Nigeria containing an area of approximately 6,780 acres as shown on Dwg. No. 200/2, the boundaries of which are described as below -

Starting at a point P.1 which lies on a bearing of $175^\circ 36' 11"$ distance 2,4518 metres from the concrete pillar marked EP 3101 the Nigerian National Grid Co-ordinates of which are -

Northing ... ... ... 33,878.54m
Eastings ... ... ... 423,468.08m

The boundaries run in straight lines, the bearings and lengths of which are as follows -

<table>
<thead>
<tr>
<th>From</th>
<th>Bearing</th>
<th>Length</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>P1</td>
<td>179° 52’ 21”</td>
<td>3,704.00m</td>
<td>P2</td>
</tr>
<tr>
<td>P2</td>
<td>89° 52’ 21”</td>
<td>7,408.00m</td>
<td>P3</td>
</tr>
<tr>
<td>P3</td>
<td>359° 52’ 21”</td>
<td>3,704.00m</td>
<td>P4</td>
</tr>
<tr>
<td>P4</td>
<td>269° 52’ 21”</td>
<td>7,408.00m</td>
<td>P1</td>
</tr>
</tbody>
</table>

All bearings and lengths are approximate and all bearings refer to National Grid North.

2. **Short title**
This Order may be cited as the Brass Oil Terminal (Establishment) Order.
OIL TERMINAL DUES ACT (Cap. 339 LFN)
Erha Oil Terminal (Establishment) Order 2006

Commencement [21th March. 2006]

In exercise of the powers conferred upon me by sub-section (2) of section 7 of the Oil Terminal Dues Act and of all other powers enabling me in that behalf. I, Olusegun Obasanjo, President of the Federal Government of Nigeria/Minister of Petroleum Resources hereby make the following Order:

1. (1) The Oil Terminal known and referred to as “Erha Oil Terminal” is for the purposes of the Oil Terminal Dues Act, hereby established as an Oil Terminal within the meaning of that Act.

(2) The said Erha Oil Terminal shall comprise the circular area, lying and situated offshore of the southern part of Nigeria and delineated as described in the Schedule of this Order.

(3) In relation to the oil terminal established by the sub-paragraph (1) of this paragraph, there shall be:
   (i) a floating production storage and offloading (FPSO) vessel called “Erha FPSO” which shall be anchored and lie wholly in the described area within the waters of the Exclusive Economic Zone of Nigeria, and
   (ii) an oil exporting shuttle tanker which shall be moored to the single point mooring (SPM), from time to time, for the purpose of loading crude oil or in a tandem configuration to the FPSO as a back-up during emergency.

2. This Order may be cited as the Erha Oil Terminal (Establishment) Order 2006.

SCHEDULE

Paragraph 1(2)

DELINERATION OF THE ERHA OIL TERMINAL

For the FPSO, the Safety Zone should encompass 500 metres off the hull and allow for tandem offloading, where export tankers can be moored to the stem of the FPSO. The Safety Zone is a rectangle 500 metres in excess of the dimensions of the combined FPSO, hawser and export tanker. In this case, the length shall be 500 metres safety zone +300 meters FPSO +200 meters hawser +350 meters export tanker +550 meters tug and tug hawser +500 metres safety zone making a total length of 2,400 metres. The width shall be 500 metres safety zone +60 metres beam +500 metres safety zone making a total width of 1,060 metres. The rectangle shall be centered on a nominal position 50 metres astern of the FPSO i.e. halfway between the FPSO and export tanker.

The Safety Zone is a rectangle of 2,400 metres by 1,060 metres lying in the following co-ordinates:

*FPSO Position

The position is defined in Universal Transverse Mercator (UTM) Zone 31, Clarke 1880, Minna Datum, with

Central Meridian as 3 degrees East.

N: 592457.3m
E: 316290.3m
Latitude: 5° 2' 127.88” N
Longitude: 4° 20' 31.49” E

*FPSO Heading:
Relative to True North
2.10 degrees
For the SPM, the Safety Zone shall be a 1500-metres radius around the center of the SPM, this being calculated as 100 metres hawser+550 metres tug and hawser+350 metres export tanker+500 metres safety zone and lying at the following co-ordinates;

**SPM Centre Position:** The position is defined in UTM 31, Clarke 1880, Minna datum with CM of 3 degrees East
N: 591255.48m
E: 317906.16m
Latitude: 5°20'48.90” N
Longitude: 4°21’24.08” E

Made at Abuja this 27th day of March, 2006.

(Signed)

Olusegun Obasanjo
President of the Federal Republic of Nigeria/
Minister of Petroleum Resources.
1. Establishment of Forcados Oil Terminal
   (1) The oil terminal known and referred to as the “Forcados Oil Terminal” is for the purposes of the Oil
       Terminal Dues Act, hereby established as an oil terminal within the meaning of that Act.

   (2) The said Forcados Oil Terminal shall comprise the two areas, being of the oil terminal which are hereby
       also established, lying and situated near Forcados and offshore off the River Forcados and delineated and
       described as follows—

       (a) Parcel A: All that parcel of land at Ogula near Forcados in the Western Ijaw Division of the Province
           of Bendel State of Nigeria containing an area of approximately 1,341 acres as shown on Plan MD/MW/1,
           the boundaries of which are described below—

       Starting at a concrete pillar marked SM 3000, the colony co-ordinates of which are 492 278.51 feet North
       and 106 811 8.73 feet East of Colony Origin, the boundaries run in straight lines, the bearings and lengths
       of which are as follows—

<pre><code>   | From  | Bearing | Length  | To    |
   |-------|---------|---------|-------|
   | SM 3000  | 188° 03' | 384.8 feet | SM 3001 |
   | SM 3001  | 187° 59' | 396.6 feet | SM 3002 |
   | SM 3002  | 188° 33' | 590.0 feet | SM 3003 |
   | SM 3003  | 190° 46' | 527.1 feet | SM 3004 |
   | SM 3004  | 188° 21' | 279.4 feet | SM 3005 |
   | SM 3005  | 99° 43'  | 548.4 feet | SM 3006 |
   | SM 3006  | 99° 52'  | 542.5 feet | SM 3007 |
   | SM 3007  | 99° 50'  | 544.3 feet | SM 3008 |
   | SM 3008  | 99° 18'  | 544.4 feet | SM 3009 |
   | SM 3009  | 99° 46'  | 615.3 feet | SM 3010 |
   | SM 3010  | 99° 01'  | 443.4 feet | SM 3011 |
   | SM 3011  | 188° 30' | 622.0 feet | SM 3012 |
   | SM 3012  | 188° 24' | 620.6 feet | SM 3013 |
   | SM 3013  | 188° 22' | 617.4 feet | SM 3014 |
   | SM 3014  | 188° 29' | 618.1 feet | SM 3015 |
   | SM 3015  | 188° 32' | 615.1 feet | SM 3016 |
   | SM 3016  | 188° 19' | 630.0 feet | SM 3017 |
   | SM 3017  | 188° 28' | 617.4 feet | SM 3018 |
   | SM 3018  | 188° 23' | 616.7 feet | SM 3019 |
   | SM 3019  | 188° 33' | 657.0 feet | SM 3020 |
   | SM 3020  | 188° 23' | 615.6 feet | SM 3021 |
   | SM 3021  | 188° 30' | 619.7 feet | SM 3022 |
   | SM 3022  | 188° 11' | 511.4 feet | SM 3023 |
   | SM 3023  | 279° 10' | 489.0 feet | SM 3024 |
   | SM 3024  | 278° 41' | 490.5 feet | SM 3025 |
   | SM 3025  | 279° 27' | 496.4 feet | SM 3026 |
</code></pre>
<table>
<thead>
<tr>
<th>From</th>
<th>Bearing</th>
<th>Length</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>SM 3026</td>
<td>279° 32’</td>
<td>433.9 feet</td>
<td>SM 3027</td>
</tr>
<tr>
<td>SM 3027</td>
<td>279° 27’</td>
<td>543.6 feet</td>
<td>SM 3028</td>
</tr>
<tr>
<td>SM 3028</td>
<td>279° 25’</td>
<td>490.4 feet</td>
<td>SM 3029</td>
</tr>
<tr>
<td>SM 3029</td>
<td>280° 04’</td>
<td>491.0 feet</td>
<td>SM 3030</td>
</tr>
<tr>
<td>SM 3030</td>
<td>279° 11’</td>
<td>489.4 feet</td>
<td>SM 3031</td>
</tr>
<tr>
<td>SM 3031</td>
<td>280° 03’</td>
<td>491.8 feet</td>
<td>SM 3032</td>
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<tr>
<td>SM 3032</td>
<td>279° 22’</td>
<td>486.4 feet</td>
<td>SM 3033</td>
</tr>
<tr>
<td>SM 3033</td>
<td>279° 30’</td>
<td>445.3 feet</td>
<td>SM 3034</td>
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<tr>
<td>SM 3034</td>
<td>279° 26’</td>
<td>588.3 feet</td>
<td>SM 3035</td>
</tr>
<tr>
<td>SM 3035</td>
<td>279° 36’</td>
<td>594.6 feet</td>
<td>SM 3036</td>
</tr>
<tr>
<td>SM 3036</td>
<td>08° 56’</td>
<td>621.4 feet</td>
<td>SM 3037</td>
</tr>
<tr>
<td>SM 3037</td>
<td>09° 00’</td>
<td>619.1 feet</td>
<td>SM 3038</td>
</tr>
<tr>
<td>SM 3038</td>
<td>08° 50’</td>
<td>613.9 feet</td>
<td>SM 3039</td>
</tr>
<tr>
<td>SM 3039</td>
<td>08° 57’</td>
<td>615.6 feet</td>
<td>SM 3040</td>
</tr>
<tr>
<td>SM 3040</td>
<td>08° 46’</td>
<td>900.9 feet</td>
<td>SM 3041</td>
</tr>
<tr>
<td>SM 3041</td>
<td>08° 53’</td>
<td>675.7 feet</td>
<td>SM 3042</td>
</tr>
<tr>
<td>SM 3042</td>
<td>08° 32’</td>
<td>617.9 feet</td>
<td>SM 3043</td>
</tr>
<tr>
<td>SM 3043</td>
<td>08° 39’</td>
<td>617.7 feet</td>
<td>SM 3044</td>
</tr>
<tr>
<td>SM 3044</td>
<td>08° 38’</td>
<td>614.8 feet</td>
<td>SM 3045</td>
</tr>
<tr>
<td>SM 3045</td>
<td>08° 23’</td>
<td>615.7 feet</td>
<td>SM 3046</td>
</tr>
<tr>
<td>SM 3046</td>
<td>08° 27’</td>
<td>616.3 feet</td>
<td>SM 3047</td>
</tr>
<tr>
<td>SM 3047</td>
<td>08° 32’</td>
<td>550.8 feet</td>
<td>SM 3048</td>
</tr>
<tr>
<td>SM 3048</td>
<td>08° 27’</td>
<td>507.0 feet</td>
<td>SM 3049</td>
</tr>
<tr>
<td>SM 3049</td>
<td>08° 06’</td>
<td>617.8 feet</td>
<td>SM 3050</td>
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<tr>
<td>SM 3050</td>
<td>07° 54’</td>
<td>683.7 feet</td>
<td>SM 3051</td>
</tr>
<tr>
<td>SM 3051</td>
<td>07° 52’</td>
<td>616.9 feet</td>
<td>SM 3052</td>
</tr>
<tr>
<td>SM 3052</td>
<td>07° 51’</td>
<td>602.8 feet</td>
<td>SM 3053</td>
</tr>
</tbody>
</table>

Thence on a bearing of 07° 51’ and a distance of 26.0 feet to the high water mark of ordinary tide of the left bank of the Forcados River, thence following the left bank of the Forcados River in a general South-easterly direction for an approximate distance of 521 feet to SM 3000, the starting point.

All property beacons are concrete pillars.
All bearing and lengths are approximate, and all bearings are referred to Colony North;

(b) **Parcel B:** All that water off the coast of the Bendel State of Nigeria containing an area of approximately 792.186 acres as shown on plan H-7101 the boundaries of which are described below—

Starting at a point FL01 which lies on a bearing of 242° 23’ distance 725.58.7 feet from Beacon 21, the Nigerian National Grid Co-ordinates of which are Eastings.. . . . . . . . . . . . . . . . . . . . . . . . . . 1 064 513.09 feet Northings. . . . . . . . . . . . . . . . . . . . . . . . . . 457 903.22 feet (Nigerian 3-belt projection system, West Belt) the boundaries run in straight lines, the bearings and lengths of which are as follows—
From | Bearing | Length | To
--- | --- | --- | ---
FL01 | 054° 46’ | 6725.8 feet | FL02
FL02 | 144° 46’ | 2677.2 feet | FL03
FL03 | 234° 46’ | 6725.8 feet | FL04
FL04 | 144° 46’ | 2254.0 feet | FL05
FL05 | 234° 46’ | 2296.6 feet | FL06
FL06 | 324° 46’ | 7185.1 feet | FL07
FL07 | 054° 46’ | 2296.6 feet | FL08
FL08 | 144° 46’ | 2254.0 feet | FL01

*(the starting point)*.

All bearings and lengths are approximate and all bearings refer to Grid North.

2. **Short title**
   (1) This Order may be cited as the Forcados Oil Terminal (Establishment) Order.
1. **Establishment of Idoho Oil Terminal**
   
   (1) The oil terminal known and referred to as the “Idoho Oil Terminal” is, for the purposes of the Oil Terminal Dues Act, hereby established as an oil terminal within the meaning of that Act.

   (2) The said Idoho Oil Terminal shall comprise the two areas, being areas of the oil terminal which are hereby also established, lying and situated off the coast of the South-Eastern State of Nigeria and delineated as described as follows—

   (a) **Area 1**— Starting at the point “A” whose Nigerian co-ordinates are N 39,283 metres, E 615,297 metres and proceeding on an approximate bearing S 38° 01’ E for a distance of approximately 738 metres to the point “B” whose Nigerian co-ordinates are N 38,702 metres, E 615,752 metres then proceeding on an approximate bearing of S 51° 09’ for a distance of approximately 919 metres to the point “C” whose Nigerian co-ordinates are N 38,136 metres, E 615,028 metres and then proceeding on an approximate bearing of N 38° 01’ W for a distance of approximately 738 metres to the point “D” whose Nigerian co-ordinates are N 38,717 metres, E 614,574 metres and then proceeding on an approximate bearing of N 51° 09’ E for a distance of approximately 919 metres back to the point “A” first described herein;

   (b) **Area 2**— Starting at the point “V” whose Nigerian co-ordinates are N 37,853 metres, E 615,855 metres and proceeding on an approximate bearing of N 88° 09’ W for a distance of approximately 847 metres to the point “X” whose Nigerian co-ordinates are N 37,881 metres, E 615,009 metres then proceeding on an approximate bearing of S 1° 51’ W for a distance of approximately 847 metres to the point “Y” whose Nigerian co-ordinates are N 37,034 metres, E 614,981 metres then proceeding on an approximate bearing of S 88° 09’ E for a distance of approximately 847 metres to the point “Z” whose Nigerian co-ordinates are N 37,881 metres, E 615,009 metres and then proceeding on an approximate bearing of N 1° 51’ E for a distance of approximately 847 metres to the point “V” first described herein.

   (3) In relation to the oil terminal established by the foregoing, there shall be—

   (a) a temporary storage tanker called “Mobil Japan” which shall be anchored and shall lie wholly inside the area described as Area 1 within the territorial waters of Nigeria; and

   (b) an oil-loading area being the area described as Area 2 within which oil-exporting ships be moored and loaded.

2. **Short title.**
   
   This Order may be cited as the Idoho Oil Terminal (Establishment) Order.
ESCRAVOS OIL TERMINAL (ESTABLISHMENT) ORDER
[L.N. 33 OF 1972]
under section 7(2)

Commencement [1st January, 1965]

1. Establishment of Escravos Oil Terminal
(1) The oil terminal known and referred to as the “Escravos Oil Terminal” is, for the purpose of the Oil Terminal Dues Act, hereby established as an oil terminal within the meaning of that Act.

(2) The Escravos Oil Terminal shall comprise the four areas, being areas of the oil terminal which are hereby also established, lying and situated at Ugborodo, Escravos Bar, and offshore off the River Escravos and delineated as described as follows—
(a) Parcel A: All that parcel of land at Ugborodo, Escravos Bar in Warri Division, Delta Province, Bendel Nigeria, containing an area of approximately 611.9 acres the boundaries of which are described below —

Starting at a concrete pillar marked MW 38 the co-ordinates of which are 581,739.01 feet North and 1,009,375.34 feet East of Colony Origin, the boundaries run in straight lines the bearings and lengths of which are as follows—

<table>
<thead>
<tr>
<th>From</th>
<th>Bearing</th>
<th>Length</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>MW 38</td>
<td>305° 17’</td>
<td>346.9 feet</td>
<td>MW 39</td>
</tr>
<tr>
<td>MW 39</td>
<td>305° 08’</td>
<td>543.3 feet</td>
<td>MW 40</td>
</tr>
<tr>
<td>MW 40</td>
<td>305° 12’</td>
<td>243.6 feet</td>
<td>MW 41</td>
</tr>
<tr>
<td>MW 41</td>
<td>305° 13’</td>
<td>178.7 feet</td>
<td>MW 12</td>
</tr>
<tr>
<td>MW 12</td>
<td>305° 14’</td>
<td>643.0 feet</td>
<td>MW 13</td>
</tr>
<tr>
<td>MW 13</td>
<td>305° 14’</td>
<td>903.0 feet</td>
<td>MW 14</td>
</tr>
<tr>
<td>MW 14</td>
<td>305° 13’</td>
<td>786.7 feet</td>
<td>MW 15</td>
</tr>
<tr>
<td>MW 15</td>
<td>305° 14’</td>
<td>866.0 feet</td>
<td>MW 16</td>
</tr>
<tr>
<td>MW 16</td>
<td>305° 14’</td>
<td>866.0 feet</td>
<td>MW 17</td>
</tr>
<tr>
<td>MW 17</td>
<td>305° 12’</td>
<td>618.8 feet</td>
<td>MW 18</td>
</tr>
<tr>
<td>MW 18</td>
<td>305° 08’</td>
<td>961.0 feet</td>
<td>MW 19</td>
</tr>
<tr>
<td>MW 19</td>
<td>304° 56’</td>
<td>1,015.4 feet</td>
<td>MW 20</td>
</tr>
<tr>
<td>MW 20</td>
<td>305° 01’</td>
<td>660.2 feet</td>
<td>MW 21</td>
</tr>
<tr>
<td>MW 21</td>
<td>35° 00’</td>
<td>984.4 feet</td>
<td>MW 22</td>
</tr>
<tr>
<td>MW 22</td>
<td>35° 01’</td>
<td>984.2 feet</td>
<td>MW 23</td>
</tr>
<tr>
<td>MW 23</td>
<td>35° 00’</td>
<td>985.1 feet</td>
<td>MW 24</td>
</tr>
<tr>
<td>MW 24</td>
<td>125° 08’</td>
<td>601.5 feet</td>
<td>MW 25</td>
</tr>
<tr>
<td>MW 25</td>
<td>125° 15’</td>
<td>436.5 feet</td>
<td>MW 26</td>
</tr>
<tr>
<td>MW 26</td>
<td>125° 08’</td>
<td>1,013.5 feet</td>
<td>MW 27</td>
</tr>
<tr>
<td>MW 27</td>
<td>125° 10’</td>
<td>524.0 feet</td>
<td>MW 28</td>
</tr>
<tr>
<td>MW 28</td>
<td>125° 10’</td>
<td>960.2 feet</td>
<td>MW 29</td>
</tr>
<tr>
<td>MW 29</td>
<td>125° 11’</td>
<td>847.3 feet</td>
<td>MW 30</td>
</tr>
<tr>
<td>MW 30</td>
<td>125° 09’</td>
<td>942.0 feet</td>
<td>MW 31</td>
</tr>
<tr>
<td>MW 31</td>
<td>125° 07’</td>
<td>1,220.1 feet</td>
<td>MW 32</td>
</tr>
<tr>
<td>MW 32</td>
<td>125° 09’</td>
<td>1,208.8 feet</td>
<td>MW 33</td>
</tr>
<tr>
<td>MW 33</td>
<td>125° 11’</td>
<td>812.2 feet</td>
<td>MW 34</td>
</tr>
<tr>
<td>MW 34</td>
<td>125° 10’</td>
<td>980.1 feet</td>
<td>MW 35</td>
</tr>
</tbody>
</table>
Thence the boundary runs in a south-westerly direction at an approximate distance of 3,201.9 feet along Ugborodo Creek to a point on the Ugborodo Creek thence in an approximate bearing of 125° 17' and distance 9.0 feet to MW 38 (the starting point).

All Licensed Surveyor's Beacons are concrete pillars; all bearings and lengths are approximate; and all bearings are referred to Colony North;

(b) Parcel B: All that parcel of land at Ugborodo, Escravos Bar in Warri Division, Delta Province, Mid-Western State of Nigeria containing an area of approximately 6.582 acres the boundaries of which are described below—

Starting at a concrete pillar marked MW 36, the boundary lies on an approximate bearing of 305° 17' and distance 110.7 feet to MW 37 thence in a bearing of 305° 17' and distance 10.0 feet to a point on the Ugborodo Creek thence in a generally easterly direction along the Ugborodo Creek for an approximate distance of 1,316.7 feet to a peg on the Creek thence in a generally south-easterly direction for an approximate distance of 250.0 feet to a point on the River thence in a generally south-westerly direction along the River for an approximate distance of 1,250 feet to a point on the River, thence in an approximate bearing of 125° 17' and distance 45.0 feet to MW 36 (the starting point).

All Licensed Surveyor's Beacons are concrete pillars.

All bearings and lengths are approximate; and all bearings are referred to Colony North. The Colony co-ordinates of MW 36 are N 177,263.54 metres and E 307,719.95 metre;

(c) Offshore Export Berth No. 1: All that sea area offshore from Ugborodo, Escravos Bar, Warri Division, Delta Province, Bendel, Nigeria, containing an area of approximately 132.231 acres the boundaries of which are described below—

Starting at co-ordinates 166,610.08 metres North and 284,703.18 metres East of Colony Origin, the boundaries run in straight lines the bearings and lengths of which are as follows—

<table>
<thead>
<tr>
<th>From</th>
<th>Bearing</th>
<th>Length</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>South-west Corner</td>
<td>North</td>
<td>2400.00 feet</td>
<td>North-west Corner</td>
</tr>
<tr>
<td>North-west Corner</td>
<td>East</td>
<td>2400.00 feet</td>
<td>North-east Corner</td>
</tr>
<tr>
<td>North-east Corner</td>
<td>South</td>
<td>2400.00 feet</td>
<td>South-east Corner</td>
</tr>
<tr>
<td>South-east Corner</td>
<td>West</td>
<td>2400.00 feet</td>
<td>South-west Corner</td>
</tr>
</tbody>
</table>

(the starting point).

All bearings and lengths are approximate; and all bearings are referred to Colony North. The Colony co-ordinates of the four corners of the area described above are as follows—

<table>
<thead>
<tr>
<th>From</th>
<th>Bearing</th>
<th>Length</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>South – west Corner</td>
<td>N 166,610.08 metres</td>
<td>E 284,703.18 metres</td>
<td></td>
</tr>
<tr>
<td>North – west Corner</td>
<td>N 167,341.60 metres</td>
<td>E 285,703.18 metres</td>
<td></td>
</tr>
<tr>
<td>North – east Corner</td>
<td>N 167,341.60 metres</td>
<td>E 285,434.70 metres</td>
<td></td>
</tr>
<tr>
<td>South – east Corner</td>
<td>N 166,610.08 metres</td>
<td>E 285,434.70 metres</td>
<td></td>
</tr>
</tbody>
</table>

(d) Offshore Export Berth No. 2: All that sea offshore from Ugborodo, Escravos Bar, Warri Division, Delta Province, Bendel, Nigeria, containing an area of approximately 247.104 acres the boundaries of which are described below—
Starting at co-ordinates 164,393 metres North and 278,050 metres East of Colony Origin, the boundaries run in straight lines, the bearings and lengths of which are as follows—

<table>
<thead>
<tr>
<th>From</th>
<th>Bearing</th>
<th>Length</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>South-west Corner</td>
<td>North</td>
<td>1,000.00 metres</td>
<td>North-west corner</td>
</tr>
<tr>
<td>North-west Corner</td>
<td>East</td>
<td>1,000.00 metres</td>
<td>North-east Corner</td>
</tr>
<tr>
<td>North-east Corner</td>
<td>South</td>
<td>1,000.00 metres</td>
<td>South-east Corner</td>
</tr>
<tr>
<td>South-east Corner</td>
<td>West</td>
<td>1,000.00 metres</td>
<td>South-west Corner</td>
</tr>
</tbody>
</table>

(the starting point).

All bearings and lengths are approximate; and all bearings are referred to Colony North. The Colony co-ordinates of the four corners of the area described above are as follows—

<table>
<thead>
<tr>
<th>From</th>
<th>North-west Corner</th>
<th>East</th>
<th>South-west Corner</th>
</tr>
</thead>
<tbody>
<tr>
<td>South-west Corner</td>
<td>N 164, 393.00 metres</td>
<td>E 278, 050.00 metres</td>
<td></td>
</tr>
<tr>
<td>North-west Corner</td>
<td>N 165, 393.00 metres</td>
<td>E 278, 050.00 metres</td>
<td></td>
</tr>
<tr>
<td>North-east Corner</td>
<td>N 165, 393.00 metres</td>
<td>E 279, 050.00 metres</td>
<td></td>
</tr>
<tr>
<td>South-east Corner</td>
<td>N 164, 393.00 metres</td>
<td>E 279, 050.00 metres</td>
<td></td>
</tr>
</tbody>
</table>

2. **Short title**
   This Order may be cited as the Escravos Oil Terminal (Establishment) Order.
OIL AND GAS EXPORT FREE ZONE
(SPECIAL IMPORT PROVISIONS) ORDER 2003
[S.I. 2 of 2003]
Under section 23(2)

Commencement [3rd April, 2003]

1. Import duty tariff rebate for special products imported into the free zone
As from the commencement of this Order, any special product imported into the free zone under the Act—
(a) on which value has been added without changing the essential character of the product after processing in the free zone; and
(b) intended for the customs territory, shall be granted an import duty tariff rebate of 75 per cent.

2. Interpretation
In this Order, unless the context otherwise requires—

“Act” means the Oil and Gas Export Free Zones Act 1996;

“customs territory” means the territory within the Federal Republic of Nigeria other than the area designated as the oil and gas free zone under Act;

“free zone” means the oil and gas free zone designated under the Oil and Gas Export Free Zone Act; [1996 No. 8]

“special product” means any article or item imported into the free zone on which value has been added without changing the essential character of the product after processing;

“value” means any additional process added on a product.

3. Citation
This Order may be cited as the Oil and Gas Export Free Zone (Special Import Provisions) Order 2003.
ODUDU OIL TERMINAL (ESTABLISHMENT) ORDER  
[S.I. 18 of 1993]  
under section 7(2)  
Commencement [1st June, 1993]

1. Establishment of the Odudu Oil Terminal
   (1) The oil terminal known and referred to as the “Odudu Oil Terminal” is for the purpose of the Oil 
       Terminal Dues Act, hereby established as an oil terminal within the meaning of that Act. 
   (2) The Odudu Oil Terminal shall comprise the area set out in this order. 

2. Storage tanker for the oil terminal
   There shall be for the Odudu Oil Terminal a temporary storage tanker to be known as “Domy” which shall 
   be anchored and lie wholly inside the areas of the oil terminal and within the territorial waters of Nigeria. 

3. Citation and Commencement
   This order may be cited as the Odudu Oil Terminal (Establishment) Order and shall be deemed to have 
   come into force on 1st June 1993. 

SCHEDULE 
[Section 1 (2)] 

AREA OF THE ODUDU OIL TERMINAL

(1) The Odudu Oil Terminal shall comprise the following area—
   Starting at the point “A” whose Nigerian co-ordinates are N 1300 metres E 587,000 metres and proceeding 
   on a bearing of 90° for a distance of approximately 200 metres to the point “B” whose Nigerian co-ordinates 
   are N 1300 metres, E 589,000 metres then proceeding on bearing of 180° for a distance of approximately 
   2,100 metres to the point “C” whose Nigerian co-ordinates are N 800 metres, E 589,000 metres then 
   proceeding on a bearing of 270° for a distance of approximately 2000 metres to the point “D” whose 
   Nigerian co-ordinates are N 800 metres, E 587,000 metres and then proceeding on a bearing of 360° for a 
   distance of approximately 2100 metres back to the point “A” first described herein. 

(2) The area shall be in 63.5 metres of water. 

2. All co-ordinates bearing and length are approximate and all bearings refer to Grid North.
PETROLEUM PRODUCTS (PRICES OF AUTOMOTIVE LUBRICATING OILS) ORDER
[S.I. 4 of 1986]

Under section 6

Commencement [12th March, 1986]

1. Fixed prices for automotive lubricating oils
   (1) The prices listed in the Schedule to this Order are hereby fixed for the quantity of Monograde SAE 30 and SAE 40, and Multigrade automotive lubricating oils SAE 20W/50 in the zones prescribed in the Schedule.
   (2) The prices in the Schedule to this Order shall be inclusive of liquid contents and container of the products.

2. Short title
   This Order may be cited as the Petroleum Products (Prices of Automotive Lubricating Oils) Order.

SCHEDULE

[Section 1]

Prices for Automotive Lubricating Oils (including Packaging)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>4 litres (gallon)</td>
</tr>
<tr>
<td>1</td>
<td>Ex-Factory (Apapa)</td>
<td>14.40</td>
</tr>
<tr>
<td>2</td>
<td>Lagos and Ogun</td>
<td>14.50</td>
</tr>
<tr>
<td>3</td>
<td>Oyo, Ondo and Bendel</td>
<td>14.60</td>
</tr>
<tr>
<td>4</td>
<td>Kwara, Niger, Federal Capital Territory, Abuja, Benue, Anambra, Imo, Rivers and Cross River</td>
<td>14.70</td>
</tr>
<tr>
<td>5</td>
<td>Kano, Kaduna and Plateau</td>
<td>14.80</td>
</tr>
<tr>
<td>6</td>
<td>Sokoto, Bauchi, Borno and Gongola</td>
<td>14.90</td>
</tr>
</tbody>
</table>
PETROLEUM PRODUCTS (UNIFORM RETAIL PRICES) ORDER
[S.I. 11 of 1986]

under section 6

Commencement [1st January, 1986]

1. **Prices of Petroleum Products**
The prices set out in the Schedule to this Order shall be the retail prices at which the petroleum products listed therein shall be sold throughout Nigeria.

2. **Short Title**
This order may be cited as the Petroleum Products (Uniform Retail Prices) Order 1986.

**SCHEDULE**

**Section 1**

**Retail Prices of Petroleum Products**¹

<table>
<thead>
<tr>
<th>Petroleum Products</th>
<th>Retail Prices in Nigeria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liquefied Petroleum Gas (LPG)</td>
<td>₦1.00 for 2.5 kg.</td>
</tr>
<tr>
<td></td>
<td>₦2.00 for 5.0 kg.</td>
</tr>
<tr>
<td></td>
<td>₦5.00 for 12.5 kg.</td>
</tr>
<tr>
<td></td>
<td>₦6.00 for 15.0 kg.</td>
</tr>
<tr>
<td></td>
<td>₦10.00 for 25.0 kg.</td>
</tr>
<tr>
<td></td>
<td>₦20.00 for 50.0 kg.</td>
</tr>
<tr>
<td>Premium Motor Spirit (Gasoline)</td>
<td>₦22.00 per litre.</td>
</tr>
<tr>
<td>Household Kerosine</td>
<td>₦17.00 per litre.</td>
</tr>
<tr>
<td>Aviation Kerosine</td>
<td>30 kobo per litre.</td>
</tr>
<tr>
<td>Automotive Gas Oil (Diesel oil)</td>
<td>₦21.00 per litre</td>
</tr>
<tr>
<td>Fuel oil</td>
<td>19.0 kobo per litre.</td>
</tr>
</tbody>
</table>

¹ Prices no longer holds since the deregulation of the downstream sector of the Petroleum Industry
PETROLEUM ACT (CAP P10, LFN, 2004)

PREMIUM MOTOR SPIRIT (UNIFORM RETAIL PRICE) ORDER, 2015

Commencement [19th Day of January, 2015]

In exercise of the powers conferred on me by Section 6 of the Petroleum Act (Cap. P10. Laws of the Federation of Nigeria, 2004) and all other powers enabling me in that behalf, I Diezani Alison-Madueke, Minister of Petroleum Resources, Federal Republic of Nigeria, make the following Order—

1. The price of Premium Motor Spirit set out in the Schedule to this Order shall be the uniform retail price at which Premium Motor Spirit shall henceforth be sold throughout Nigeria.

2. The Premium Motor Spirit (Price fixing) Order, 2012 is hereby revoked.

3. This Order may be cited as the Premium Motor Spirit (Uniform Retail Price) Order, 2015.

SCHEDULE

UNIFORM RETAIL PRICE OF PREMIUM MOTOR SPIRIT

<table>
<thead>
<tr>
<th>Petroleum Product</th>
<th>Uniform Retail Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Premium Motor Spirit (Petrol)</td>
<td>₦87.00 (Eighty Seven Naira) per litre</td>
</tr>
</tbody>
</table>

MADE at Abuja this 19th Day of January, 2015

MRS. DEZIANI ALISON-MADUEKE, CON
Honourable Minister of Petroleum Resources

EXPLANATORY NOTE
(This note does not form part of this Order but is intended to explain its purport)

This Order set out the retail price at which Premium Motor Spirit shall henceforth be sold throughout Nigeria and revoked the Premium Motor Spirit (Price Fixing) Order, 2012.
PREMIUM MOTOR SPIRIT (PRICE FIXING) ORDER, 2012

Commencement [16th day of January, 2012]

In exercise of the power conferred on me by Section 6 of the Petroleum Act (Cap. P10. LFN, 2004) and all other powers enabling me in that behalf, I, Diezani Alison-Madueke, Minister of Petroleum Resources, Federal Republic of Nigeria, make the following Order—

1. The price of Premium Motor Spirit (PMS) is hereby fixed at N97.00 (Ninety Seven Naira) per litre and shall henceforth be sold at this price.

2. This Order may be cited as the Premium Motor Spirit (Price Fixing) Order, 2012.

MADE at Abuja this 16th Day of January, 2012

DEZIANI ALISON-MADUEKE
Honourable Minister of Petroleum Resources
1. Establishment of Qua Iboe Oil Terminal

(1) The oil terminal known and referred to as the “Qua Iboe Oil Terminal” is, for the purposes of the Oil Terminal Dues hereby established as an oil terminal within the meaning of that Act.

(2) The said Qua Iboe Oil Terminal shall comprise the six areas, being areas of the oil terminal which are hereby also established, lying and situated near and offshore off the mouth of the Qua Iboe River in the South-Eastern State of Nigeria and delineated as described as follows—

(a) Parcel A: All that parcel of land at Ibuno in the Eket Division in the Akwa Ibom State of Nigeria containing an area of approximately 810.04 acres, the boundaries of which are described below—

Starting at a concrete pillar marked PBGK 32 the co-ordinates of which are 374.51 feet South and 5,321.47 feet East of a concrete pillar marked BCS1T the origin of Big Town, Ibuno, the boundaries run in straight lines with bearings and lengths as follows—

<table>
<thead>
<tr>
<th>From</th>
<th>Bearings</th>
<th>Lengths</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>GK 32</td>
<td>359° 58’</td>
<td>524.2 feet</td>
<td>GK 33</td>
</tr>
<tr>
<td>GK 33</td>
<td>270° 00’</td>
<td>399.9 feet</td>
<td>GK 1</td>
</tr>
<tr>
<td>GK 1</td>
<td>00° 00’</td>
<td>1,144.6 feet</td>
<td>GK 2</td>
</tr>
<tr>
<td>GK 2</td>
<td>359° 58’</td>
<td>1,140.9 feet</td>
<td>GK 3</td>
</tr>
<tr>
<td>GK 3</td>
<td>359° 59’</td>
<td>999.4 feet</td>
<td>GK 4</td>
</tr>
<tr>
<td>GK 4</td>
<td>00° 00’</td>
<td>138.8 feet</td>
<td>GK 5</td>
</tr>
<tr>
<td>GK 5</td>
<td>89° 59’</td>
<td>984.5 feet</td>
<td>GK 6</td>
</tr>
<tr>
<td>GK 6</td>
<td>90° 00’</td>
<td>475.2 feet</td>
<td>GK 7</td>
</tr>
<tr>
<td>GK 7</td>
<td>359° 58’</td>
<td>287.9 feet</td>
<td>GK 8</td>
</tr>
<tr>
<td>GK 8</td>
<td>11° 12’</td>
<td>146.0 feet</td>
<td>GK 9</td>
</tr>
<tr>
<td>GK 9</td>
<td>33° 42’</td>
<td>146.6 feet</td>
<td>GK 10</td>
</tr>
<tr>
<td>GK 10</td>
<td>56° 12’</td>
<td>146.7 feet</td>
<td>GK 11</td>
</tr>
<tr>
<td>GK 11</td>
<td>78° 53’</td>
<td>146.3 feet</td>
<td>GK 12</td>
</tr>
<tr>
<td>GK 12</td>
<td>101° 12’</td>
<td>146.3 feet</td>
<td>GK 13</td>
</tr>
<tr>
<td>GK 13</td>
<td>123° 41’</td>
<td>146.2 feet</td>
<td>GK 14</td>
</tr>
<tr>
<td>GK 14</td>
<td>146° 12’</td>
<td>146.5 feet</td>
<td>GK 15</td>
</tr>
<tr>
<td>GK 15</td>
<td>168° 51’</td>
<td>146.1 feet</td>
<td>GK 16</td>
</tr>
<tr>
<td>GK 16</td>
<td>179° 58’</td>
<td>288.2 feet</td>
<td>GK 17</td>
</tr>
<tr>
<td>GK 17</td>
<td>90° 00’</td>
<td>746.4 feet</td>
<td>GK 18</td>
</tr>
<tr>
<td>GK 18</td>
<td>89° 59’</td>
<td>982.1 feet</td>
<td>GK 19</td>
</tr>
<tr>
<td>GK 19</td>
<td>89° 59’</td>
<td>985.9 feet</td>
<td>GK 20</td>
</tr>
<tr>
<td>GK 20</td>
<td>89° 57’</td>
<td>983.0 feet</td>
<td>GK 21</td>
</tr>
<tr>
<td>GK 21</td>
<td>89° 56’</td>
<td>1,091.6 feet</td>
<td>GK 22</td>
</tr>
<tr>
<td>GK 22</td>
<td>89° 58’</td>
<td>989.4 feet</td>
<td>GK 23</td>
</tr>
<tr>
<td>GK 23</td>
<td>89° 58’</td>
<td>982.5 feet</td>
<td>GK 24</td>
</tr>
</tbody>
</table>
and thence on a bearing 179° 54' at a distance of 47.0 feet to the bank of the Atlantic Ocean; thence on a generally Westerly direction for a distance of 5,664.3 feet along the bank, thence on a South-Westerly direction along the bank for a distance of 1,601.6 feet and thence to a point on the bank whose bearing is 00° 01' at a distance of 91.9 feet to a concrete beacon PBGK 32, the starting point.

All property beacons are concrete pillars, all bearings and lengths are approximate and all bearings are referred to Colony North;

(b) *Parcel B:* All that parcel of land at Nkpenek, Ibuno in the Eket Division of the South-Eastern State of Nigeria containing an area of approximately 11.89 acres, the boundaries of which are described below—

Starting at a concrete pillar marked PBGK 1 the co-ordinates of which are 149.74 feet North and 4,921.34 feet East of a concrete pillar marked BCS1T the origin of Big Town, the boundaries run in straight lines, the bearings and lengths of which are as follows—

<table>
<thead>
<tr>
<th>From</th>
<th>Bearings</th>
<th>Lengths</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>GK 1</td>
<td>90° 00'</td>
<td>399.9 feet</td>
<td>GK 33</td>
</tr>
<tr>
<td>GK 33</td>
<td>179° 58'</td>
<td>100.1 feet</td>
<td>GK 34</td>
</tr>
<tr>
<td>GK 34</td>
<td>270° 00'</td>
<td>1,271.5 feet</td>
<td>GK 35</td>
</tr>
<tr>
<td>GK 35</td>
<td>270° 01'</td>
<td>1,096.9 feet</td>
<td>GK 36</td>
</tr>
<tr>
<td>GK 36</td>
<td>270° 00'</td>
<td>983.9 feet</td>
<td>GK 37</td>
</tr>
<tr>
<td>GK 37</td>
<td>270° 01'</td>
<td>984.7 feet</td>
<td>GK 38</td>
</tr>
<tr>
<td>GK 38</td>
<td>270° 00'</td>
<td>853.1 feet</td>
<td>GK 39</td>
</tr>
<tr>
<td>GK 39</td>
<td>00° 08'</td>
<td>99.8 feet</td>
<td>GK 43</td>
</tr>
<tr>
<td>GK 43</td>
<td>90° 00'</td>
<td>852.8 feet</td>
<td>GK 44</td>
</tr>
<tr>
<td>GK 44</td>
<td>90° 01'</td>
<td>984.3 feet</td>
<td>GK 45</td>
</tr>
<tr>
<td>GK 45</td>
<td>90° 01'</td>
<td>984.7 feet</td>
<td>GK 46</td>
</tr>
<tr>
<td>GK 46</td>
<td>89° 59'</td>
<td>986.6 feet</td>
<td>GK 47</td>
</tr>
<tr>
<td>GK 47</td>
<td>90° 00'</td>
<td>981.6 feet</td>
<td>GK 1</td>
</tr>
</tbody>
</table>

(the starting point)

All property beacons are concrete pillars, all bearings and lengths are approximate and all bearings are referred to Colony North;

(c) *Parcel C:* All that parcel of land at Nkpenek, Ibuno in the Eket Division of the Akwa Ibom State of Nigeria containing an area of approximately 9.899 acres, the boundaries of which are described below—

Starting at a concrete pillar marked PBGK 41 the co-ordinates of which are 775.54 feet North and 499.43 feet West of a concrete pillar marked BCS1T the origin of Big Town, the boundaries run in straight lines, the bearings and lengths of which are as follows—

<table>
<thead>
<tr>
<th>From</th>
<th>Bearings</th>
<th>Lengths</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>GK 1</td>
<td>90° 00'</td>
<td>399.9 feet</td>
<td>GK 33</td>
</tr>
<tr>
<td>GK 33</td>
<td>179° 58'</td>
<td>100.1 feet</td>
<td>GK 34</td>
</tr>
<tr>
<td>GK 34</td>
<td>270° 00'</td>
<td>1,271.5 feet</td>
<td>GK 35</td>
</tr>
<tr>
<td>GK 35</td>
<td>270° 01'</td>
<td>1,096.9 feet</td>
<td>GK 36</td>
</tr>
<tr>
<td>GK 36</td>
<td>270° 00'</td>
<td>983.9 feet</td>
<td>GK 37</td>
</tr>
<tr>
<td>GK 37</td>
<td>270° 01'</td>
<td>984.7 feet</td>
<td>GK 38</td>
</tr>
<tr>
<td>GK 38</td>
<td>270° 00'</td>
<td>853.1 feet</td>
<td>GK 39</td>
</tr>
<tr>
<td>GK 39</td>
<td>00° 08'</td>
<td>99.8 feet</td>
<td>GK 43</td>
</tr>
<tr>
<td>GK 43</td>
<td>90° 00'</td>
<td>852.8 feet</td>
<td>GK 44</td>
</tr>
<tr>
<td>GK 44</td>
<td>90° 01'</td>
<td>984.3 feet</td>
<td>GK 45</td>
</tr>
<tr>
<td>GK 45</td>
<td>90° 01'</td>
<td>984.7 feet</td>
<td>GK 46</td>
</tr>
<tr>
<td>GK 46</td>
<td>89° 59'</td>
<td>986.6 feet</td>
<td>GK 47</td>
</tr>
<tr>
<td>GK 47</td>
<td>90° 00'</td>
<td>981.6 feet</td>
<td>GK 1</td>
</tr>
</tbody>
</table>
and thence on a bearing 270° 00’ for 50.8 feet to the bank of the Qua Iboe River and thence on a North-Westerly direction along the bank at a distance of approximately 739.2 feet to a point 34.0 feet and on a bearing 90° 03’ from PBGK 41, the starting point.

All property beacons are concrete pillars, all bearings and lengths are approximate and all bearings are referred to Colony North;

(d) **Parcel D: A loading Pier:** All that parcel of land at Ibuno in Eket Division of the South-Eastern State of Nigeria, containing an area of approximately 2,704.95 square yards, the boundaries of which are described below—

Starting at a concrete pillar marked PBGK 48, the co-ordinates of which are 670.25 feet North and 1,544.47 feet West of a concrete pillar marked ICSIS, the origin of Ibuno, the boundaries run in straight lines, the bearings and lengths of which are as follows—

<table>
<thead>
<tr>
<th>From</th>
<th>Bearings</th>
<th>Lengths</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>GK 48</td>
<td>352° 26’</td>
<td>181.1</td>
<td>GK 49</td>
</tr>
<tr>
<td>GK 49</td>
<td>82° 26’</td>
<td>109.9</td>
<td>GK 50</td>
</tr>
<tr>
<td>GK 50</td>
<td>172° 23’</td>
<td>220.6</td>
<td>GK 51</td>
</tr>
</tbody>
</table>

and thence on a bearing 170° 23 to the bank of the Qua Iboe River and thence generally in a Westerly direction along the river bank for a distance of approximately 117.0 feet to a point on the bank which is on a bearing of 252° 26’ at a distance of 20.0 feet from PBGK 48, the starting point.

(e) **Parcel E:** Tanker loading facilities—

1. Berth No. 1 Convention 7 point mooring system described as Area No. 1, being an area lying offshore off the mouth of Qua Iboe River in the South-Eastern State of Nigeria, as follows—

   *Area 1* - Starting at the point “V” whose Nigerian co-ordinates are N37,633 metres E614,564 metres and proceeding on a bearing of N90° W for a distance of approximately 894 metres to the point “X” whose Nigerian co-ordinates are N37,633 metres, E613,670 metres then proceeding on a bearing of 50° E for a distance of approximately 894 metres to the point “Y” whose Nigerian co-ordinates are N36,739 metres E613,670 metres then proceeding on a bearing N90° E for a distance of 894 metres to a point “Z” whose Nigerian co-ordinates are N36,739 metres E614,564 metres and then proceeding on a bearing of N0° E for a distance of approximately 894 metres back to point “V” first described herein; and

2. Berth No. 2 Standard single point mooring buoy described as Area No. 2, being an area lying offshore off the mouth of the Qua Iboe River in the South-Eastern State of Nigeria, as follows—

   *Area 2* - A circular area whose radius is 750 metres and whose centre is a single point mooring an SPM Buoy whose Nigerian co-ordinates are N24,227 metres, E620,106 metres and whose geographic co-ordinates are N04° 13’ 09” and E08° 02’ 44”

All property beacon are concrete pillars, all bearings and lengths are approximate and all bearings are referred to Colony North.

2. **Short title**

This Order may be cited as the Qua Iboe Oil Terminal (Establishment) Order.
In exercise of the power conferred on me by Section 7, subsection (2) of the Oil Terminal Dues Act, Cap 08, Laws of Federation of Nigeria, 2004 and all other powers enabling me in that behalf, I, Mrs Diezani Alison-Madueke, Minister of Petroleum Resources, Federal Republic of Nigeria, make the following Order:

1. (1) There is hereby established an oil terminal to be known as “TULJA Oil Terminal” (otherwise referred to in this Order as “the Oil Terminal”).

   (2) The Oil Terminal shall lie wholly in the Floating Storage and Off-loading, otherwise referred to as (“FSO”), safety exclusion zone, located offshore of the southern part of Nigeria within the waters of the Exclusive Economic zone of Nigeria and delineated as described in the Schedule to this Order.

   (3) The Oil Terminal established pursuant to the provision of sub-paragraph (1) of this paragraph shall consist of a spread-moored Floating, Storage and Offloading (“FSO”) vessel for receiving and storing crude oil.

   (4) The Oil Terminal FSO shall, from time to time, conduct Tandem Export Offloading Operations utilizing Export Tankers moored in a Tandem configuration from the stern of the Oil Terminal FSO.

2. This Order may be cited as the TULJA Oil Terminal (Establishment) Order, 2011.

SCHEDULE

DELINDEATION OF THE TULJA OIL TERMINAL

1. (1) A safety exclusion zone of 500 meters radius is required for the Oil Terminal FSO, comprising of a circular area, centered on the Oil Terminal FSO in the position designated below +/-15 meters.

   (2) The Oil Terminal FSO shall be located in an approximate position centered at:

   | Longitude  | 05° 07’ 23.57” East |
   | Latitude   | 05° 01’ 16.81 North |
   | Northing   | 11 293 5            |
   | Easting    | 299 835             |

   (3) The Oil Terminal FSO shall be permanently moored by 1 anchor on an approximate heading of 2000 true +/-0.50 degree.

2. (1) The distance for the Oil Terminal FSO safety exclusion zone shall be calculated to accommodate export tanker mooring arrangements as follows: —

   (a) 100 meters Mooring Hawser;
   (b) 350 meters Tanker;
   (c) 500 meters Tug Line;
   (d) 50 meters Tug Length; and
   (e) 500 meters Safety Zone.

   Total Distance = 1,500 meters

MADE at Abuja this 11th Day of October, 2011

DEZIANI ALISON-MADUEKE, CON
Honourable Minister of Petroleum Resources
Federal Republic of Nigeria
OIL TERMINAL DUES ACT
[CAP. 08, LFN, 2004]

EBOK OIL TERMINAL (ESTABLISHMENT) ORDER, 2011

Commencement  [16th day of October, 2011]

In exercise of the power conferred on me by Section 7, subsection (2) of the Oil Terminal Dues Act, Cap 08, Laws of Federation of Nigeria, 2004 and all other powers enabling me in that behalf, I, Mrs Diezani Alison-Madueke, Minister of Petroleum Resources hereby, make the following Order—

1.—(1) There is hereby established an oil terminal to be known as “EBOK Oil Terminal” (otherwise referred to in this Order as “the Oil Terminal”).
   (2) The Oil Terminal shall lie wholly in the Floating Storage and Off-loading, otherwise referred to as (“FSO”), safety exclusion zone, located offshore of the southern part of Nigeria within the waters of the Exclusive Economic zone of Nigeria and delineated as described in the Schedule to this Order.
   (3) The Oil Terminal established pursuant to the provision of sub-paragraph (1) of this paragraph shall consist of a spread-moored Floating, Storage and Offloading (“FSO”) vessel for receiving and storing crude oil.
   (4) The Oil Terminal FSO shall, from time to time, conduct Tandem Export Offloading Operations utilizing Export Tankers moored in a Tandem configuration from the stern of the Oil Terminal FSO.

3. This Order may be cited as the EBOK Oil Terminal (Establishment) Order, 2011.

SCHEDULE

(PARAGRAPH 1(2)

DELINEATION OF THE EBOK OIL TERMINAL

1. (1) A safety exclusion zone of 1500 meters radius is required for the Oil Terminal FSO, comprising of a circular area, centered on the Oil Terminal FSO in the position designated below +/-15 meters.
   (2) The Oil Terminal FSO shall be located in an approximate position centered at:
       Longitude  8 10' 29.0157” North
       Latitude    4 06' 4.1836” East
       Northing  11 190.0
       Easting  634 445.0
   (3) The Oil Terminal FSO shall permanently moored by 12 anchors on an approximate heading of 225° South-West = +/-0.5°.
   (4) Two submerged steel Oil Offloading lines shall run from the Oil Terminal FSO to an Offtake Tanker and secured by a mooring hawser. A circular safety exclusion zone or 1500 meters radius shall exist around the Offtake Tanker.

2.—(1) The distance for the Oil Terminal FSO safety exclusion zone shall be calculated to accommodate export tanker mooring arrangements as follows:
   (a) 100 meters Mooring Hawser;
   (b) 350 meters Tanker;
   (c) 500 meters Tug Line;
   (d) 50 meters Tug Length; and
   (e) 1,500 meters Safety Zone.
   Total Distance = 2,500 meters

MADE at Abuja this 16th Day of May, 2011

DEZIANI ALISON-MADUEKE, (MRS)
Honourable Minister of Petroleum Resources
Federal Republic of Nigeria
In exercise of the powers conferred on me by Section 7, subsection (2) of the Oil Terminal Dues Act, Cap. 08, Laws of Federation of Nigeria, 2004 and all other powers enabling me in that behalf, I, Mrs. Diezani Alison-Madueke, Minister of Petroleum Resources make the following Order:

1.—(1) There is hereby established an oil terminal to be known as “USAN Oil Terminal” (otherwise referred to in this Order as “the Oil Terminal”).

(2) The Oil Terminal shall lie wholly in the Floating Storage and Off-loading, otherwise referred to as (“FSO”), safety exclusion zone, located offshore of the southern part of Nigeria within the waters of the Exclusive Economic zone of Nigeria and delineated as described in the Schedule to this Order.

(3) The Oil Terminal established pursuant to the provision of sub-paragraph (1) of this paragraph shall consist of—

(a). a spread-moored Floating, Storage and Offloading (“FSO”) vessel for receiving and storing crude oil; and

(b). a buoy for offloading crude oil to tankers for transportation to the market.

(4). The Oil Terminal FSO shall, from time to time, conduct Tandem Export Offloading Operations utilizing Export Tankers moored in a Tandem configuration from the stern of the Oil Terminal FPSO.

2. This Order may be cited as the USAN Oil Terminal (Establishment) Order, 2011.
DELINEATION OF THE USAN OIL TERMINAL

1.— (1) A safety exclusion zone of 1,500 meters radius shall be established for the Oil Terminal FPSO, comprising of a circular area, centered on the Oil Terminal FPSO in the position designated below +/-15 meters.

(2) The Oil Terminal FPSO shall be located in an approximate position centered at:
Latitude  3° 34’ 28.227” North
Longitude 7° 23’ 36.916” East
Northing 395 213 North
Easting 654 787 East

(3) The Oil Terminal FPSO be shall permanently moored by 16 anchors on an approximate heading of 022°.

(4) Two submerged steel Oil Offloading lines shall run from the Oil Terminal FPSO to a Single Point Mooring buoy ("SPM").

2.— Distance from FPSO to SPM is approximately 1,950 meters.

(1). A circular safety exclusion zone of 1500 meters radius shall be established around the SPM, centered in a position as specified in sub-paragraph (2) below:

(2). SPM safety zone shall be centered in an approximate position of:
Latitude  3° 35’ 27.709” North
Longitude 7° 24’ 00.921” East
Northing 397 041 North
Easting 695 525 East

(3). The distance for the SPM exclusion zone shall be calculated to accommodate export tanker mooring arrangements as provided below:
(a) 100 meters Mooring Hawser;
(b) 350 meters Tanker;
(c) 500 meters Tug Line;
(d) 50 meters Tug Length; and
(e) 500 meters Safety Zone.
Total Distance = 1,500 meters

MADE at Abuja this 10th Day of November, 2011

DEZIANI ALISON-MADUEKE, (MRS)
Honourable Minister of Petroleum Resources
Federal Republic of Nigeria.
1. Establishment of Pennington Oil Terminal

(1) The oil terminal known and referred to as the “Pennington Oil Terminal” is, for the purposes of the Oil Terminal Dues Act, hereby established as an oil terminal within the meaning of that Act.

(2) The said Pennington Oil Terminal shall comprise the three parcels of land, being areas of the oil terminal which are hereby also established, situated offshore off the mouth of the River Pennington and delineated as described as follows:

(a) Parcel A: That parcel of land on the continental shelf underlying the territorial waters of the Federation of Nigeria whose north-east corner, P.1, is approximately 34,343.6 feet west and approximately 22,922.1 feet south of the Reference Point Zut 335 containing approximately 9.355 acres the boundaries of which are as follows:

From the north-east corner, P.1, whose grid co-ordinates are 235,375.0 feet north and 1,108,146.3 feet east of Colony Origin the boundary runs at grid azimuth 179° 55' (west belt) to the south-east corner, P.2, at a distance of approximately 2,015.2 feet from the north-east corner P.1;

Thence from the south-east corner, P.2 whose grid co-ordinates are 233,359.8 feet north and 1,108,149.0 feet east of Colony Origin the boundary runs at grid azimuth 269° 55' (west belt) to the south-west corner, P.3 at a distance of approximately 2,022.3 feet from the south-east corner, P.2;

Thence from the south-west corner, P.3, whose grid co-ordinates are 233,357.0 feet north and 1,106,126.8 feet east of Colony Origin, the boundary runs at grid azimuth 359° 55' (west belt) to the north-west corner, P.4 at a distance of approximately 2,015.2 feet from the south-west corner, P.2;

Thence from the north-west corner, P.4 whose grid co-ordinates are 235,372.2 feet north and 1,106,124.1 feet east of Colony Origin, the boundary runs at grid azimuth 89° 55' (west belt) to the north-east corner, P.1, the starting point, at a distance of approximately 2,022.2 feet from the north-west corner, P.4;

(b) Parcel B: That parcel of land on the continental shelf underlying the territorial waters of the Federation of Nigeria whose north-east corner, P.5, is approximately 39,294.9 feet west and approximately 25,246.2 feet south of the Reference Point Zut 335 containing approximately 37.421 acres the boundaries of which are as follows:

From the north-east corner, P.5, whose grid co-ordinates are 233,050.8 feet north and 1,103,195.0 feet east of Colony Origin the boundary runs at grid azimuth 179° 55' (west belt) to the south-east corner, P.6, at a distance of approximately 4,030.3 feet from the north-east corner, P.5;

Thence from the south-east corner, P.6, whose grid co-ordinates are 229,020.5 feet north and 1,103,200.4 feet east of Colony Origin the boundary runs at grid azimuth 269° 55' (west belt) to the south-west corner, P.7, at a distance of approximately 4,044.5 feet from the south-east corner, P.6;

Thence from the south-west corner, P.7, whose grid co-ordinates are 229,015.1 feet north and 1,099,155.9 feet east of Colony Origin, the boundary runs at grid azimuth 359° 55' (west belt) to the north-west corner, P.8, at a distance of approximately 4,030.3 feet from the south-west corner, P.7;

Thence from the north-west corner, P.8, whose grid co-ordinates are 233,045.4 feet north and 1,099,150.6 feet east of Colony Origin, the boundary runs at grid azimuth 89° 55' (west belt) to the north-west corner, P.5, the starting point, at a distance of approximately 4,044.4 feet from the north-west corner, P.8.
Parcel C. That parcel of land on the continental shelf underlying the territorial waters of the Federation of Nigeria whose north-east corner, P9, is approximately 42,523.8 feet west and approximately 30,288.5 feet south of the Reference Point Zut 335 containing approximately 37.421 acres the boundaries of which are as follows—

From the north-east corner, P9, whose grid co-ordinates are 228,008.6 feet north and 1,099,966.2 feet east of Colony Origin, the boundary runs at grid azimuth 179° 55' (west belt) to the south-east corner, P10, at a distance of approximately 4,030.3 feet from the north-east corner, P9;

Thence from the south-east corner, P10, whose grid co-ordinates are 223,978.3 feet north and 1,099,971.6 feet east of Colony Origin the boundary runs at grid azimuth 269° 55' (west belt) to the south-west corner, P11, at a distance of approximately 4,044.6 feet from the south-east corner, P10;

Thence from the south-west corner, P11, whose grid co-ordinates are 223,972.9 feet north and 1,095,927 feet east of Colony Origin, the boundary runs at grid azimuth 359° 55' (west belt) to the north-west corner, P12, at a distance of approximately 4,030.3 feet from the south-west corner, P11;

Thence from the north-west corner, P12, whose grid co-ordinates are 228,003.2 feet north and 1,095,921.6 feet east of Colony Origin, the boundary runs at grid azimuth 89° 55' (west belt) to the north-east corner, P9, the starting point, at a distance of approximately 4,044.5 feet from the north-west corner, P12.

Reference Point: The Reference Point called Zut 355, is defined on ground by survey pillar Zut 335, the position of which is determined approximately by the following co-ordinates—

<table>
<thead>
<tr>
<th>Grid Co-ordinates (west belt)</th>
<th>Northing 258,297.0 feet</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Easting 1,142,489.9 feet</td>
</tr>
<tr>
<td>Geographical Co-ordinates</td>
<td>Latitude 04° 42'41&quot;</td>
</tr>
<tr>
<td></td>
<td>Longitude 05° 33'33&quot;</td>
</tr>
</tbody>
</table>

This point is at the mouth of the Pennington River near the village of Ekenie.

Grid System: The azimuths used in this description are grid azimuths (west belt) based on the projection system as used in Nigeria and areas are calculated from co-ordinates based on the same system.

(3) In relation to the oil terminal established by the foregoing, there shall be—

(a) a temporary storage tanker called “SPV 367001” which shall be anchored and shall lie wholly within the area described as Parcel B; and

(b) an oil-loading area being the area described as Parcel C within which oil-exporting ships shall be moored and loaded.

2. **Short title**

This Order may be cited as the Pennington Oil Terminal (Establishment) Order.