UCC Law Journal. Volume 5 Issue 1, Sept., 2025, 57-107
DOI: 10.47963/ucclj.v5i1.2059

REGULATORY STANDARDS FOR THE DECOMMISSIONING OF OIL AND GAS INSTALLATIONS IN NIGERIA: A CROSS-NATIONAL CASE STUDY

Enobong Mbang Akpambang[1], Oluwatoyin Olayinka Omoniyi[2], & Mfon Inioluwa Akpambang[3]

ABSTRACT

Petroleum assets decommissioning is ineluctable once the oilfield reaches the end of its operational lifespan, as extending or replacing the infrastructure may no longer be technically or commercially sustainable. In Nigeria, most studies on decommissioning focus mainly on comparing Nigeria's frameworks with those of developed petroleum-producing countries, overlooking lessons from developing oil-rich nations. To address the gap, the paper examines Nigeria's decommissioning regulatory framework and implementation challenges via a comparative analysis with the United Kingdom (UK) and Ghana to identify lessons that Nigeria can draw from the comparator countries. The UK was selected for its widespread decommissioning experience and robust regulatory regime, while Ghana, a developing hydrocarbon-producing country, currently executing decommissioning operations of its Saltpond oilfield, provides practical insights for Nigeria, which has yet to start any decommissioning activities. Utilising a doctrinal legal research method, the article examines conventions, statutes, case laws, and relevant literature. Findings disclosed that though the Petroleum Industry Act (PIA) 2021 and its regulations align with international standards, considerable regulatory and institutional gaps impede effective implementation. Challenges include undue ministerial discretion, weak enforcement, limited technical capability, and possible fiscal risk linked to unstable financial institutions managing decommissioning funds. Comparatively, the UK exemplifies a strong regulatory and practical model, while Ghana accentuates the importance of early

[1] Ph.D., LL.M, LL. B, BL. He is a Professor at the Department of Public Law, Faculty of Law, Ekiti State University, Ado-Ekiti, Nigeria. E-mail: *enobong.akpambang@eksu.edu.ng*, barristereno@yahoo.com. He is also the corresponding author. ORCID ID: https://orcid.org/0000-0003-0520-8604.

[2] Faculty of Law, Redeemer's University, Ede, Nigeria. E-mail: omoniyio@run.edu.ng. ORCID ID: https://orcid.org/0009-0001-6544-4150.

[3] Faculty of Law, Federal University Oye Ekiti, Oye-Ekiti, Nigeria. E-mail: inioluwamfonakpambang@gmail.com, akpambang.mfon.201032@fuoye.edu.ng. ORCID ID: https://orcid.org/0009-0000-1251-1818.

and proactive decommissioning planning. The article concludes that Nigeria can reinforce its decommissioning governance, mitigate environmental concerns, and improve socio-economic gains through effective implementation of extant laws, embracing global excellent practices, and drawing lessons from both the UK and Ghana.

Keywords: Decommissioning, Ghana, Nigeria, Oil and Gas Installations, United Kingdom

INTRODUCTION

In the hydrocarbon sector, the lifespan of a petroleum project has various stages, such as exploration, development, production, and decommissioning.[4] As an oil and gas field attain its climax and consequently begins to reduce in production, a number of alternatives are available to the operator or licensee to prolong the operational asset's lifespan; but at times, the expenditure for such extension may no longer be economically and technically viable as the field would have reached its economic level or maturity and the only rational thing to do is the cessation of operations and to take steps towards decommissioning.[5] The term 'decommissioning' lacks a definitive definition in most global, regional, and domestic laws;[6] hence, terms such as 'abandonment,' 'disposal,' and 'removal,' that constitute likely phases in decommissioning exercise, have been used.[7] In fact, under the Nigerian Petroleum Industry Act (PIA) 2021, the phrase, 'decommissioning and abandonment,' is considered as the endorsed procedure of

[4] Naadira Ogeer, Economic Adviser-Oceans and Natural Resources Division, Common Wealth Secretariat, *Oil and Gas Decommissioning Toolkit: Practical Guidance for Governments* (The Commonwealth Secretariat 2022)1, 3, <https://thecommonwealth.org/oil-and-gas-decommissioning-toolkit>, accessed 5 February 2025.

[5] William S. Griffin, 'Evolution of the Global Decommissioning Regulatory Regime,' (1999) 14(2) SPE Production & Facilities 83-97 <https://doi/10.2118/56061-PA>.

[6] P. I. Azubuike, 'An Appraisal of Sustainable Decommissioning of Petroleum Installations and Environmental Protection in Nigeria' (2022) 4(3) International Review of Law and Jurisprudence 140, 142.

[7] M. L. Fam, and others, 'A Review of Offshore Decommissioning Regulations in Five Countries-Strengths and Weaknesses' (2018) 160 Ocean Engineering 244-263; B. A. Hamzah, 'International Rules on Decommissioning of Offshore Installations: Some Observation' (2003) 27(4) Marine Policy 339-348, <https://doi.org/10.1016/S0308-597X(03)00040-X>.

terminating the activities of petroleum wells, installations, facilities and allied infrastructures, together with the cessation of operations, complete or incomplete structural dismounting of equipment where essential, precautionary handling and discarding of harmful substances and leftover materials, and ecological restoration of the impacted site after the fittings have been removed.[8]

Thus, it is clear that decommissioning is an authorised method by means of which petroleum reservoirs are contained and allied installation and ancillary facilities are removed and disposed of to ensure that the exploration area is safe and restored to an environmentally satisfactory state[9] with due compliance with environmental, social, and economic concerns. The process of sustainable decommissioning is predominantly vital for oil and gas-bearing communities or countries since it signifies both a financial and environmental challenge with long-term consequences for the petroleum industry participants and petroleum-bearing communities. Owners and licensees of oil and gas installations have the responsibility of ensuring that they perform decommissioning operations under supervision by relevant regulators as stipulated in the laws.

An evaluation report released by the United Nations Environmental Programme (UNEP) concerning Ogoniland, a community in the Niger Delta area, identified the problems associated with the decommissioning of petroleum facilities as a contributory factor to environmental degradation of the region. Consequently, the report called on oil operators, including Shell Petroleum Development Company (SPDC), to conduct a complete assessment of its facilities. SPDC was also asked to prepare a programme for the administration of its assets' integrity and decommissioning of the area,[10] along with commencing decommissioning

[8] PIA 2021, section 318. Nunzia Capobianco and others consider decommissioning as referring to the 'series of processes involved in deactivating a facility at the end of its life, as well as its deconstruction and dismantling and the removal of components for reuses, remanufacturing, recycling, storage, and/or disposal' and that the disposal procedure is often complex, costly and have ecological footprint- see Nunzia Capobianco and others, 'Toward a Sustainable Decommissioning of Offshore Platforms in the Oil and Gas Industry: A PESTLE Analysis' (2021) 13 Sustainability 1, 2, https://doi.org/10.3390/su13116266.

[9] Naadira Ogeer (n 4) at 2.

[10] United Nations Environmental Programme*, Environmental Assessment of Ogoniland* (Nairobi, Kenya: United Nations Environmental Programme 2011) 8, 16,

operations of its non-producing facilities.[11] Though SPDC claimed that it had complied with most of the recommendations made in the UNEP report,[12] there is no evidence that the oil firm had either submitted the required decommissioning plan or carried out any decommissioning operation in the area.[13]

Regardless of the growing significance of decommissioning in Nigeria, with over 175 petroleum installations, no petroleum decommissioning activities have been undertaken. This emphasises the necessity for comparative analysis to identify sound regulatory frameworks and lessons from comparator countries that Nigeria can implement. The study draws on two benchmark Commonwealth countries with a common legal heritage-the UK and Ghana. The UK is a recognised global leader in the North Sea offshore decommissioning and can provide robust regulatory and practical expertise; conversely, Ghana is a nascent oil producer presently decommissioning its Saltpond oilfield and can offer valuable lessons on early adoption of excellent decommissioning practices. By contrast, despite almost seven decades of petroleum production, Nigeria still grapples with outdated petroleum facilities, regulatory gaps, and a lack of decommissioning experience, with attendant environmental consequences on the petroleum-bearing communities. Deriving insights from both developed and developing frameworks, the study suggests for Nigeria a sustainable decommissioning governance that aligns with global requirements.

The previous literature review revealed that while some of the works examined decommissioning of petroleum facilities, most comparative studies focused on

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<https://ejcj.orfaleacenter.ucsb.edu/wp-content/uploads/2018/03/2011.-UNEP-Report.Environmental-Assessment-of-Ogoniland-2011.pdf>, accessed 13 February 2025.

[11] Ibid at 205.

[12] Shell Petroleum Development Company of Nigeria Limited, 'The UNEP Environmental Assessment of Ogoniland,' <https://www.shell.com.ng/sustainability/environment/unep-environmental-assessmen-ofogoniland.html>, accessed 13 February 2025.

[13] SPDC itself has admitted that though the company has concluded an inventory and physical verification of assets for decommissioning, it is still in the process of collaborating with its joint venture partners to develop a development programme for the assets. The company attributed the delay in implementation to its inability to gain access into Ogoniland since 1993 when it left the area in controversial circumstances. See, Shell Petroleum Development Company of Nigeria Limited, 'Frequently Asked Questions: What Actions Have Been Taken by SPDC?' < https://www.shell.com.ng/sustainability/environment/unep-environmental-assessmen-of-ogoniland/unep-faq.html>, accessed 13 February 2025.

Nigeria and higher-income petroleum-producing countries, neglecting developing and emerging oil-producers like Ghana. Dike's work compared Nigeria, Norway, the UK, and Brazil,[14] but limited his focus to pre-PIA 2021 laws and also failed to interrogate the decommissioning innovations introduced by the Energy Act 2016 and the Decommissioning of Offshore Oil and Gas Installations and Pipelines Guidance Notes 2018. Anyatang and Kooffereh likewise compared Nigeria, the UK, and the USA decommissioning operations,[15] highlighting national versus regional/global regulatory regimes but correspondingly failed to consider evolving petroleum producers or Nigeria's post-PIA 2021 decommissioning improvements. Unwana's study examined decommissioning frameworks in Nigeria and Canada, emphasising insolvency and financial security for decommissioning obligations, but similarly relied on pre-PIA 2021 statutes/regulations and only paired Nigeria with an industrialised country.[16]

Ole,[17] Omotuyi,[18] and Okumagba[19] focused basically on Nigeria, while Stephens' research concentrated on sustainable decommissioning in Ghana;[20] yet in neither circumstance did the respective writers engage in comparative examination between Nigeria, Ghana, and the UK. Nonetheless, some of their findings would be relevant to this work as regards the national laws examined. Generally, the reviewed literature shows gaps in addressing Nigeria's decommissioning

[14] S. C. Dike, 'Decommissioning and Abandonment of Oil and Gas Facilities Legal Regime in Nigeria: Any Lesson from Norway, the UK and Brazilian Legal Frameworks?' (2017) 9(1) Journal of Property Law and Contemporary Issues, 169-183.
[15] Brian F. I. Anyatang and Bassey E. Kooffreh, 'Abandonment/Decommissioning under Nigerian Legal Regimes: A Comparative Analysis,' (2021) 23(2) Environmental Law Review 110-127.
[16] Udo Unwana, 'Examining the Legal Framework Guaranteeing Discharge of Decommissioning Liabilities by Insolvent Oil Companies in Nigeria: Lessons from Canada's Regulatory Regime,' (2020) OGEL Energy Law Journal 4.
[17] Ngozi Chinwa Ole, 'Decommissioning and the Petroleum Industry Act 2021' (2023) 11(1) AELN Journal of Environment & Natural Resources Law 101-118.
[18] Opeyemi Yetunde Omotuyi, 'A Critical Assessment of the Regulatory Framework for Oil and Gas Decommissioning in Nigeria,' (2023) 14(1) The Journal of Sustainable Development Law and Policy 140-163.
[19] Edward O. Okumagba, 'Decommissioning of Oil and Gas Installations in Nigeria: A Critical Appraisal of the Impacts of the Petroleum Industry Act 2021' (2022) 15(7) Baltic Journal of Law & Politics 1370-1393.
[20] Thomas Kojo Stephens, 'Sustainable Decommissioning in Ghana: Historical Developments, Currents Practice and Challenges' (2023) 14(1) The Journal of Sustainable Development Law and Policy 82-116.

framework post-PIA 2021 and comparing Nigeria with both emerging oil producer nations like Ghana, as well as a developed country with a strong decommissioning regime like the UK. This gap underlines the importance of the extant study.

The article adopted a normative or doctrinal legal research method, with the primary legal material used being relevant conventions, case laws, regulatory and policy frameworks in Nigeria and the comparator countries. The secondary data relied upon were articles in journals, textbooks, official publications, newspapers, encyclopaedias, and materials sourced from the internet. However, the key limitation of the adopted doctrinal research approach is that it may be largely library-based; but to address this associated constraint, the study will adopt a critical method to doctrinal analysis by ensuring that the assessment of legal and policy frameworks is not merely descriptive but equally logical, analytical, contextual, and comparative where appropriate.

We structured the article into seven parts. The article begins with an introductory part. In section two, the authors examined some global and regional instruments on decommissioning. Part three considered Nigeria's regulatory instruments on decommissioning. The fourth segment discussed the legal framework in the UK, while the Ghanaian petroleum industry and decommissioning laws are examined in part five. The sixth part is the comparisons in the legal framework and practices between the comparator countries and Nigeria, vis-à-vis the possible lessons that Nigeria can garner from them. The work ended in section seven with concluding remarks.

SOME RELATED INTERNATIONAL AND REGIONAL INSTRUMENTS ON DECOMMISSIONING

International and regional legal instruments have played significant roles in shaping and steering the application of municipal decommissioning legislation and practices in various petroleum-producing countries, including Nigeria.[21] In this section, an attempt will be made to discuss three vital worldwide conventions, a framework of unbinding overarching principles, and pertinent regional documents. In light of Nigeria's dualist legal system, universal and regional agreements must

[21] Edward O. Okumagba (n 19) at 1376.

be domesticated before possessing enforceability potency,[22] since mere ratification is inadequate.[23] However, these instruments have substantially influenced national legislation on petroleum decommissioning, as replicated in the PIA 2021 and its regulations.

United Nations Convention on the Continental Shelf, 1958 (the Geneva Convention 1958)[24]

The convention mandates that any discarded or deserted installation should be completely taken away[25] so that there will be no obstruction to navigation of the sea. This aligns with the obligation imposed on convention parties that, while exploring and exploiting the continental shelf and its natural resources, care must be taken to guarantee that such activities do not result in unacceptable impediment to maritime transportation, fisheries, or the marine resource preservation, or otherwise impede essential ocean or other scientific studies intended for public dissemination.[26]

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[22] Constitution of the Federal Republic of Nigeria 1999 (as amended), section 12; *Medical Health Workers Union of Nig. v Minister of Minister of Labour & Productivity* (2005) 17 NWLR (Pt. 953) 120, 155-157; *The Registered Trustees of National Association of Community Health Practitioners of Nigeria & 2 Ors. v Medical & Health Workers Union of Nigeria* (2008) All FWLR (Pt. 412) 1013, 1056-1057.

[23] Elijah Oluwtoyin Okebukola, 'The Application of International Law in Nigeria and the Facade of Dualism' (2020) 11 (1) Nnamdi Azikiwe University Journal of International Law and Jurisprudence 15, 17-18; Eghosa Osu Ekhator and Godswill Agbaitoro, 'Energy Law and Policy in Nigeria with Reflection on the International Energy Charter and Domestication of the African Charter' in Romola Adeola & Ademola Oluborode Jegede (eds), *Governance in Nigeria Post-1999: Revisiting the Democratic 'New Dawn' of the Fourth Republic* (Pretoria University Law Press 2019) 113, 126-127.

[24] 499 UNTS 311; adopted on 29 April 1958 and entered into force on 10 June 1964. Nigeria, Ghana and the UK are parties to the Convention; <https://treaties.un.org.pages/viewdetails.aspx?src=treaty&mtdsg_no=xxi-4&chapter=21&clang=_en>, accessed 12 February 2025.

[25] Ibid, Article 5(5); though the convention provided for total removal, the subsequent UNCLOS allowed some flexibility in specific instances, by potentially allowing partial removal depending on certain situations.

[26] Ibid, Article 5(1); Brain F. I. Anyatang and Bassey E. Kooffreh (n 15) at 113.

United Nations Convention on the Law of the Sea (UNCLOS) 1982[27]

The subject pertaining to the decommissioning of petroleum facilities and subsidiary infrastructures is dealt with explicitly in the convention. The convention prescribed the removal of disused installations to guarantee navigational safety, having consideration to commonly recognised global principles established by applicable global authorities.[28] From the wording of Article 60(3), it appears that the clause does not require an unqualified duty to take away offshore facilities since it tends to make safety of navigation the focal point for the removal of installations, and therefore, undermines the absolute character of the responsibility. It can be deduced that where navigational safety is not compromised, the installations may remain in place.[29] Thus, UNCLOS recognises a prospect of partially removing the installations and secondary facilities to ensure navigational safety.[30]

Some writers have faulted the provisions of Article 60(3), contending that its formulation differs appreciably from the 1958 Geneva Convention's Article 5(5) that prescribed the total taking away of discarded and unused installations.[31] Likewise, it has been argued that the said UNCLOS provision established a broad-spectrum duty for complete removal to guarantee navigational safety, regarding abandonment or fractional removal as an exception that needed explicit good

[27] 21 ILM 1261 (1982); adopted on 10 December 1982 and entered into force 16 November 1994; Nigeria, Ghana and the UK have ratified the Convention.
[28] Ibid, Article 60(3).
[29] Seline Trevisanut, 'Decommissioning of Offshore Installations: A Fragmented and Ineffective International Regulatory Framework' in Catherine Banet (ed) *The Law of the Seabed: Access, Uses, and Protection of Seabed Resources* (Brill/Nijhoff 2020) 431, 435-436, Chapter 18 < https://doi.org/10.1163/9789004391567_02>.
[30] Advocaat Law Practice, 'Legal Framework for Decommissioning in Nigeria' < https://advocaat-law.com/wp-content/uploads/2021/12/LEGAL-FRAMEWORK-FOR-DECOMMISSIONING-IN-NIGERIA.pdf>, accessed 12 February 2025.
[31] George C. Kasoulides, 'Removal of Offshore Platforms and the Development of International Standards' (1989) 13(3) Marine Policy 249-265< https://doi.org/10.1016/0308-597X(89)90058-4>; Paul V. McDade, 'The Removal of Offshore Installations and Conflicting Treaty Obligations as a Result of the Emergence of the New Law of the Sea: A Case Study' (1987) 24 San Diego Law Review 645-687; Zhiguo Gao, 'Current Issues of International Law on Offshore Abandonment, with Special Reference to the United Kingdom' (1997) 28(1) Ocean Development and International Law 59-78 <https://doi.org/10.1080/00908329709546095>.

reasons.[32] While the convention has no direct provision concerning the disposal of petroleum facilities in the maritime areas, littoral states are, however, saddled with the responsibilities of issuing warnings regarding offshore structures within their areas of competence.[33] Since UNCLOS requires decommissioning to align with global standards, it implies that State parties, including Nigeria, must therefore consider the 1989 IMO guidelines when dealing with the discarding of derelict or desuetude installations.[34]

Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matters (London Convention) 1972[35] and its 1996 Protocol[36]

Both documents stand among the foremost international frameworks that provide global standards for protecting the maritime environment from waste dumping, which could endanger health and safety, including hampering other lawful maritime operations.[37] While the convention considers dumping as the deliberate disposal of waste from vessels, aircraft, or platforms at sea,[38] the Protocol broadened this definition to include seabed storage and the premeditated desertion or collapse of facilities with the intent of disposing of them.[39] Moreover, the Protocol enhances maritime environmental protection by banning waste dumping at sea, unless for specified low-risk substances.[40] In contrast, the main convention allowed disposal with prior approval, waste appraisal, site assessment, and disposal procedural review as stipulated in Annex III of the convention.[41] The

[32] Rudiger Wolfrum and Nele Matz, *Conflicts in International Environmental Law* (Springer Verlag 2003) 110-111.
[33] UNCLOS, Articles 19(2)(k) and 24(2).
[34] Robert Beckman, 'Global Legal Regime on the Decommissioning of Offshore Installations and Structure' in Myron H. Nordquist and others (eds), *The Regulation of Continental Shelf Development: Rethinking International Standards* (Martinus Nijhoff Publishers 2013) 259, 279-280. See also section 232(1) of the Nigerian Petroleum Industry Act 2021 which requires that national regulatory guidelines for abandonment, decommissioning and disposal of oil installations, structures, facilities and pipelines must align with the global standards prescribed under the 1989 IMO guidelines.
[35] Adopted on 13 November 1972; entered into force on 30 August 1975.
[36] Adopted 7 November 1996; entered into force on 24 March 2006.
[37]London Convention 1972, Article I.
[38] Ibid, Article III(1)(a)(i)-(ii).
[39] London Protocol 1996, Article 1(4)(1).
[40]Ibid, Annex I.
[41] Ibid, Article IV(2).

Protocol further mandates both the precautionary approach and polluter-pays principle by contracting parties for the effective implementation and enhancement of waste management.[42]

IMO Guidelines and Standards for the Removal of Offshore Installations and Structures on the Continental Shelf (CS) and in the Exclusive Economic Zone (EEZ) 1989[43]

The guidelines create minimal requirements for taking out offshore facilities in the continental shelf and EZZ. Complete removal is prescribed for derelict facilities and formations below 75 meters deep and 4000 tonnes in addition to those fixed after 1st January 1998, standing lower than 100m and 4000 tonnes.[44] In the event of a proposal for permission to conduct a total or partial decommissioning of facilities, a contracting State must provide excellent reasons for such a decision, bearing in mind the ecological aftermath, navigational safety, expenses, technical viability, and safety of workers.[45]

[42] Ibid, Article 3(1) and (2).
[43] UNGA Resolution A 16/Res.672; adopted on 19 October 1989.
[44] Ibid, paras. 3.1 and 3.2.
[45] Ibid, para. 2.1(1)-(6).

OSPAR Convention for the Protection of the Marine Environment of the North-East Atlantic 1992[46] and the OSPAR Decision 98/3 on the Disposal of Disused Offshore Installations[47]

The convention is a sectional multilateral accord that explicitly bans the discharge of offshore facilities' waste into the sea environment.[48] In the contemplation of the convention, dumping extends to any deliberate discharge of waste from offshore facilities,[49] although it is exclusive of leaving entirely or partially disused installations and pipelines in situ as long as the activities undertaken comply with the convention's requirements.[50] Disused offshore facilities can only be left completely or partially in situ where a contracting party's permission has been issued on an individual basis and stating the rationale for acceptance;[51] such authorisation must also be duly communicated to other contracting parties for ease of consultation.[52]

Similarly, OSPAR Decision 98/3 outlaws the discharge and complete or partial leaving in place of disused offshore facilities in the marine region. But where there are substantial justifications why a substitute disposal process is more desirable than reusing or reprocessing, or ultimate disposal on land, the supervisory agency

[46] The 15 European governments that are parties to the convention are: Belgium, Denmark, Finland, France, Germany, Iceland, Ireland, Luxembourg, The Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. See, OSPAR Commission, 'OSPAR Convention,' <https://water.europa.eu/marine/countries-and-regional-seas/regional-conventions/ospar-convention>, accessed 1 February 2025.

[47] Adopted on 22-23 July 1998. It is noteworthy that on 24 June 2024, during its 27th Session/Meeting, the OSPAR Commission adopted OSPAR Decision 2024/01 to amend OSPAR Decision 98/3 regarding the meaning of 'concrete installation.' According to the latest clarification, no cell content within the substructure will constitute an installation. See, European Commission, 'Proposal for a Council Decision on the Position to be taken on behalf of the European Union in the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention) on Decision amending OSPAR Decision 98/3 on the Disposal of Disused Offshore Installations,' Brussels, 8.4.2024 Com (2024) 2153 final 2024/0084 (NLE) at paragraph 2.3 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52024PC0153>, accessed 1 February 2025.

[48] OSPAR Convention 1992, Annex III, Article 3(1).

[49] Ibid, Article 1(f)(i)(2).

[50] Ibid, Article 1(g)(iii).

[51] Ibid, Article 5(1) of Annex III.

[52] Ibid, Annex III, Article 5(3); Seline Trevisanut (n 29) at 449-450.

of the applicable contracting party may issue an authorisation.[53] A similar responsibility had existed under the defunct Oslo Convention, 1972[54] and explains why the UK government communicated to the European Union and the Oslo Commission concerning its decision to authorise the dumping of Brent Spar by Shell[55] before it was subsequently aborted following widespread protests spearheaded by Greenpeace.[56]

Convention for Co-operation in the Protection, Management and Development of the Marine and Coastal Environment of the Atlantic Coast of West, Central and Southern African Region 1981 (Abidjan Convention)[57]and the Malabo Protocol 2019[58]

The convention is a comprehensive legal framework that was adopted as a regional response to prevent, lessen, and regulate the contamination of the sea and shoreline environments in the West, Central, and Southern African sub-region, and to enhance sustainable resource use and other associated operations that may harmfully affect the health of their ecosystem.[59] The convention equally seeks to stop, eliminate, and regulate contamination arising from operations involving the exploration and exploitation of the seabed, together with those occurring from

[53] OSPAR Decision 98/3, paras. 2 and 3; Elizabeth A. Kirk, Colin Warbrick, and Dominic McGoldrick, 'OSPAR Decision 98/3 and the Dumping of Offshore Installations' (1999) 48(2) The International and Comparative Law Quarterly 458-464 <https://doi.org/10.10.17/S0020589300063302>.

[54] Article 5 of the 1972 Oslo Convention gave contracting parties the leeway to grant authorisation for dumping where excusable reasons existed.

[55] Michael Sheridan and Nicholas Schoon, 'Major Resist Kohl over Shell Dumping, *Independent* (London, 15 June, 1995) <https://www.independent.co.uk/news/major-resists-kohl-over-shell-dumping-1586597.html>, accessed 2 February 2025; Shell UK Ltd., 'Brent Spar Dossier' <https://www.shell.co.uk/about-us/sustainability/decommissioning/brent-spar-dossier/_icr_content/root/main/section/call_to_action/links/item0.stream/1688633554375/32a2d94fa77c57684b3cad7d06bfc7b65473faa/brent-spar-dossier.pdf> accessed 1 February 2025.

[56] Seline Trevisanut (n 29) at 450; Greenpeace International, 'Greenpeace Activists Board Shell Oil Rigs in Protest Against Plans to Leave Behind Oil in the North-Sea' < https://www.greenpeace.org/international/press-release/248226/greenpeace-activists-board-shell-oil-rigs-in-protest-against-plans-to-leave-behind-oil-in-the-north-sea/> accessed 1 February 2025.

[57] Adopted on 23 March 1981 and entered into forces 5 August 1984. Nigeria and Ghana have respectively ratified the treaty.

[58] The Malabo Protocol 2019 was adopted at the Abidjan Convention's Second Conference of Plenipotentiaries of Parties to the Convention held in Abidjan in July 2019.

[59] The Abidjan Convention 1981, Article 4.

petroleum facilities and structures,[60] but there is no express mention of decommissioning in all its clauses.[61]

Unlike the Abidjan Convention, the Malabo Protocol covers the decommissioning of offshore oil and gas facilities. According to the Protocol, 'decommissioning' entails the closing and sealing of a well, removing facilities, and conducting a clean-up exercise of dangerous substances from the facility in addition to site restoration in line with municipal laws and global standards.[62] It goes further to proffer a broad definition for 'facility' to include artificial 'structures, plants and vessels' employed in the marine area for offshore exploitation and exploration.[63] To eradicate and avoid contamination from allied activities, contracting parties are enjoined to utilise the precautionary, polluter-pays, and public participation principles.[64]

Contracting parties are to make sure that decommissioning operations are compatible with the best global standards and have regard for other lawful activities of the sea, especially for fishing, navigational security, and preservation of the maritime environment, without interference with other contracting parties' privileges and obligations.[65] In applying for a permit, the operators must inter alia, provide information pertaining to steps to be employed towards the decommissioning, the insurance, and other financial guarantees for the operation.[66] Like the situation under UNCLOS, total removal of installations is not compulsory since the Malabo Protocol indicates that fractional removal is permissible on the condition that commonly accepted global standards and guidelines are taken into consideration in the decommissioning operations.[67]

[60] Ibid, Article 8.
[61] Tim Martin, 'Decommissioning of International Petroleum Facilities Evolving Standards & Key Issues,' <https://timmartins.ca/wp-content/uploads/2016/02/Decommissioing-of-Int-Petroleum-Facilities-Martin2004.pdf>, accessed 1 February 2025.
[62] Malabo Protocol 2019, Article 1(vii).
[63] Ibid, Article 1(x).
[64] Ibid Article 4(2).
[65] Ibid, Article 22.
[66] Malabo Protocol 2019, Articles 7 and 22.
[67] Ibid, Article 22.

UCC Law Journal. Volume 5 Issue 1, Sept., 2025, 57-107
DOI: 10.47963/ucclj.v5i1.2059

NIGERIAN PETROLEUM INDUSTRY AND RELEVANT NATIONAL LAWS ON DECOMMISSIONING

Nigeria is a leading petroleum-producing country on the African continent, with petroleum resources as the bastion of its economy, contributing considerably to Nigeria's GDP, budget revenues, and earnings from foreign exchange.[68] In practical terms, about 80% of its revenue originates from petroleum resources, while more than 90% of the country's total export can be traced to the petroleum sector.[69] Prior to the discovery of crude oil in commercial quantities by Shell D'Arcy in January 1956 at Oloibiri oilfield,[70] the country's economy depended largely on agriculture for revenue.[71] Oil exploration operations in Nigeria date back to 1908, though some authors claim that it actually began in 1903,[72] when a

[68] Joint UNDP/World Bank Energy Sector Management Assistance Programme (ESMAP), *Taxation and State Participation in Nigeria's Oil and Gas Sector* (The International Bank for Reconstruction and Development/The World Bank, August 2004) 1< https://openknowledge.worldbank.org/entities/publication/4b3fa51e-50c0-5c85-9e11-da6651748871> , accessed 5 February 2025; Sule-Iko Sadeeq Sani Sami and Murtala Taiwo, 'Effect of Crude Oil Prices and Production on the Performance of Nigerian Gross Domestic Product: A Conceptual Framework' (2023) 11 Journal of Human Resources and Sustainability Studies 698, 698-699.

[69] Enobong Mbang Akpambang, Oluwatoyin Olayinka Omoniyi, and Mfon Inioluwa Akpambang, 'Assessing the Impact of International and Regional Legal Frameworks on Petroleum Assets Decommissioning Legislation in Nigeria,' (2026) 17(1) The Journal of Sustainable Development Law and Policy, 206, 210, <https://doi.org/10.4314/jsdlp.v17i1.8>; Ngozi Chinwa Ole and Eti Best Herbert, 'The Nigerian Offshore Oil Risk Governance Regime: Does the Petroleum Industry Act 2021 Address the Existing Gaps?' (2022) 31(3) Studia Iuridica Lublinensia 143,144, <https://doi.org/ 10.17951/sil.2022.31.3.143-163>; Edward O. Okumagba (n 19) at 1371.

[70] Shell Petroleum Development Company of Nigeria, 'The History of Shell in Nigeria' <https://www.shell.com.ng/about-us/shell-nigeria-history.html>, accessed 5 February 2025.

[71] Sylvester Okotie, 'The Nigerian Economy before the Discovery of Crude Oil' in Prince E. Ndimele (ed) *The Political Ecology of Oil and Gas Activities in the Nigerian Aquatic Ecosystem* (Academic Press 2018) 71, 71-72 <https://doi.org/10.1016/B978-0-12-809399-3.00005-7>; A. Ogunlowo, 'Before the Beginning,' *Tell*, (Lagos: 18 February 2008- Special Edition: 50 Years of Oil in Nigeria) 17-18; United Nations Environmental Programme (n 10) at 20.

[72] For instance, Steyn has posited that the search for oil in Nigeria officially commenced in 1903 when the British colonial government granted exploration licences to two companies, namely, Nigeria Properties (Limited) and the Nigeria and West Africa development Syndicate (Limited) to explore for bitumen, coal and oil in the Agbabu-Mulekangbo area of Lekki Lagoon in the present day Lagos State of Nigeria and that the geological survey investigation had indicated that there was a prospect for oil in substantial quantity- see Phia Steyn, 'Oil Exploration in Colonial Nigeria, C.1903-1958' (2009) 37(2) The Journal of Imperial and Commonwealth History 249-274, <https://doi.org/10.1080/03086530903010376> and

German company, Nigerian Bitumen Company, was granted a licence to explore for oil[73] in the Araromi area of south-western Nigeria;[74] but the exploration operation was unsuccessful.[75] Currently, Nigeria holds substantial oil and gas reserves and ranks among the leading international exporters of crude oil and liquefied natural gas (LNG).[76] Conversely, petroleum operations, primarily located in the Niger Delta area, have led to serious fundamental rights violations and ecological degradation in the region by reason of oil spills, gas flaring, ageing infrastructures and ancillary facilities, among others.

Despite maintaining more than 175 petroleum installations in the Niger Delta area, with projections of having more given new findings,[77] Nigeria has yet to begin decommissioning,[78] and has no publicly declared decommissioning estimated

<https://dspace.stir.ac.uk/handle/1893/2735?mode=full>, accessed 5 February 2025; N. Chinwa Ole, 'The Financial Securities for Decommissioning of Offshore Installations in Nigeria: A Review of the Legal and Contractual Regime' (2017) 15(1) Oil, Gas & Energy Law Intelligence 1, 4 <https://www.researchgate.net/publications/315446032_The_Financial_Securities_for_Decommissioning_of_Offshore_Installations_in_Nugerua_A_Review_of_The_Legal_and_Contractual_Regime>, accessed on 5 February 2025.

[73] G. Etikerentse, *Nigerian Petroleum Law* (2nd edn, Dredew Publishers 2004) 6.

[74] Yinka Omorogbe, *Oil and Gas Law in Nigeria* (Malthouse Law Books 2001) 16; F. O. Ayodele-Akaakar, 'Appraising the Oil & Gas Laws: A Search for Enduring Legislation for the Nigeria Delta Region' (2001) 3(2) Journal of Sustainable Development in Africa 1.

[75] G. Etikerentse, (n 73).

[76] U. S. Energy Information Administration (EIA), 'Country Analysis Brief: Nigeria (26 April 2023) <https://www.eia.gov/international/analysis/country/NGA>, accessed 5 February 2025; BP 2022 Statistical Review of World Energy (June 2022) <https://www.bp.com/en/global/corporate/energy-economics/webcast-and-on-demand.html#tab_sr-2022>, accessed 5 February 2025.

[77] Eduardo G. Pereira, Tolulope O. Taiwo, and Ngozi Chinwa Ole, 'Addressing Residual Liability and Insolvency in Disused Oil and Gas Infrastructure Left in Place: The Cases of Brazil, Nigeria, and Trinidad and Tobago' (2020) 11(2) The Journal of Sustainable Development Law and Policy 326, 345-346, <https://dx.doi.org/10.4314/jsdlp.v11i2.3>; Efe Uzezi Azaino, 'International Decommissioning Obligations: Are There Lessons Nigeria Can Acquire from UK's Legal and Regulatory Framework?' <https://www.academic.edu/3834331/International_Decommissioing-Obligation_Are_there_lessons_Nigeria_can_acquire_from_the_UK_s_legal_and_regulatory_framework>, accessed 5 February 2025.

[78] Enobong Mbang Akpambang, Oluwatoyin Olayinka Omoniyi, and Mfon Inioluwa Akpambang (n 69) at 210-211; Eduardo G. Pereira, Tolulope O. Taiwo, and Ngozi Chinwa Ole (n 77) at 346; Taiwo Afonja, Rogba Payne, and Rere Oye, 'Nigeria' in Eduardo G. Pereira and others (eds) *The Regulations of Decommissioning, Abandonment and Reuse Initiatives in the Oil and Gas Industry: From Obligation to Opportunities* (Kluwer Law International 2020), 525.

budgets in place. The problem is further compounded following recent developments whereby international oil companies (IOCs) have been transferring their interests from onshore assets to local petroleum companies,[79] leaving their environmental clean-up and decommissioning liabilities unpaid. The divestments also raise serious global concerns about whether the transferee local firms have the capacity to contend with the associated historical obligations,[80] even as there are studies indicating that most of the installations are approaching their operational life with several of them becoming outdated.[81] Therefore, in this section, some relevant legislation governing decommissioning operations in Nigeria will be examined to ascertain the gaps and compatibility with global and regional instruments.

Petroleum Act (PA) 1969[82] and the Petroleum (Drilling and Production) Regulations 1969[83]

Under the PA 1969, there was no direct clause in the statute on how to manage petroleum platforms or facilities at the end of their productive life, thereby creating a serious legal vacuum on how to regulate the concluding phase of hydrocarbon operations.[84] In many developing and emerging oil-producing countries, the initial

[79] For instance, ExxonMobil and SPDC have been mentioned in such transferring transactions. See: Cletus O. Akenbor and ThankGod Obtor Imo, 'Decommissioning Costs in Oil and Gas Operations in Nigeria: Theoretical Reflections' (2022) 17(2) Nigeria Academy of Management Journal 30, 31; Charlie Mitchell, 'Nigeria's Seplat Completes Acquisition of ExxonMobil Oil Assets,' <https://www.spglobal.com/commodity-insights/en/news-research/latest-news/crude-oil/121224-nigerias-seplat-completes-acquisition-of-exxonmobil-oil-assets>, accessed 5 February 2025; Taiwo Adebayo, 'Nigeria Moves to Restart Oil Production in Vulnerable Region after Shell Sells Much of its Bossiness,' *AP News* (Lagos, 3 February 2025),<https://apnews.com/article/nigeria-shell-divestment-niger-delta-ogoni-4ceb760d5d84e8d58b04d24d220893a>, accessed 5 February 2025.

[80] Vivian Chime, 'UN Experts Accuse Top Oil Firms of Rights Violations Over Nigerian Assets Sales' *Energy, Justice News* (2 September 2025), <https://www.climatechangenews.com/2025/09/02/un-experts-accuse-top-oil-firms-of-rights-violations-over-nigerian-asset-sales>, accessed 4 September 2025.

[81] Ayoade Morakinyo Adedayo, 'Environmental Risk and Decommissioning of Offshore Oil Platforms in Nigeria' (2011) NIALS Journal of Environmental Law 1; Edward O. Okumagba (n 19) at 1372.

[82] Act No. 51 of 1969 (now Cap. P. 10, Laws of the Federation of Nigeria, 2004).

[83] Legal Notice 69 of 1969 (now Cap. P. 10, Laws of the Federation of Nigeria, 2004).

[84] It is worthy of note that as at 1956 when oil was discovered in commercial quantities in Nigeria, the principal law regulating the nascent mineral oil in the country was the colonial administration's

focus after large-scale commercial discoveries is on enacting laws geared towards production and revenue generation rather than planning for decommissioning. Nigeria followed this pattern, enacting the PA 1969 about thirteen years after oil discovery and the Petroleum Profit Tax Act (PPTA)1958[85] just within a space of two years after production to regulate production and proceeds from petroleum resources. Decommissioning is frequently ignored since it becomes pertinent only after production terminates,[86] but inadequate planning or implementation of it can result in serious consequences once the field is no longer economically viable.[87] Such consequences may include a lack of availability of sufficient funds to execute the operations, resulting in considerable costs to the government and taxpayers.

Like the principal law, the attendant ministerial petroleum Regulations[88] made pursuant to section 9 of the PA 1969 also lacked precise and comprehensive clauses on decommissioning of petroleum facilities, though they provided in general terms some duties, which could be construed as being applicable to decommissioning of petroleum facilities. For example, regulation 37 mandates licensees/lessees to adopt all practicable good oilfield practice to prevent pollution or hazards in the course of petroleum activities and to restore impacted sites.[89] Also, non-producing wells are to be securely plugged to avoid leakage.[90] However, the regulation failed to make specific provisions requiring operators to submit their decommissioning or abandonment plans prior to cessation of operations, unlike the situation in Ghana, the UK,[91] and/or in the extant Petroleum Industry Act

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Mineral Oil Ordinance 1914 together with the amendments introduced in 1946, 1950, and 1959. The colonial law did not contain clauses relating to decommissioning- see G. Etikerentse (n 73) at 6-10.

[85] Act No. 15 of 1959 (now Cap.P13, Laws of the Federation of Nigeria 2004); the statute was actually passed in 1959 but retroactively taking effect from 1st January 1958.

[86] Thomas Kojo Stephen and Theophilus Acheampong, 'Funding Decommissioning in Emerging Petroleum Producing Countries: Ghana's Experience with Decommissioning Costs and Guarantees,'
<https://aura.abdn.ac.uk/bitstream/2164/25020/1/Stephens_etAcheampong_JENRL_Funding_Decommissioning_in_Emerging_AAM.pdf>, accessed 6 February, 2025.

[87] Naadira Ogeer, (n 4) at 2.

[88] Legal Notice 69 of 1969 (now Cap. P. 10, Laws of the Federation of Nigeria, 2004).

[89] Ibid, regulation 46.

[90] Ibid, regulations 36.

[91] Compare with section 43 of Ghana's Petroleum (Exploration and Production) Act 919 of 2016, which enjoins a contractor, licence or lease holder to submit a decommissioning plan to the

2021,[92] where such plans are legally required. Moreover, no specific detailed procedures for site restoration or timelines for total or agreed-upon state of restoration were stipulated.[93] Another critical setback of the Regulations was that it provided a substantial level of discretionary powers to be exercised by the regulatory body,[94] thereby raising serious transparency and compliance questions concerning the yardstick for exercising such powers by the regulator.[95]

Oil and Gas Pipelines Regulations (OAGPR) 1995[96]

Though OAGPR did not expressly adopt the phrase, 'decommissioning of pipelines,' it provided a procedure for decommissioning of pipelines. Licence holders were required to notify the erstwhile Department of Petroleum Resources (DPR)[97] prior to the discontinuance and describe the planned method.[98] The regulations permitted either abandonment in situ or entire removal, as endorsed by the regulator. Where total removal was required, the site had to be restored to a perfect state,[99] but since 'restore to perfect condition' was vague, its interpretation depended exclusively on the DPR.

Petroleum Commission at least 5 years before the expected end of production. The required plan, among others, must incorporate details on how petroleum facilities would be dismantled, abandoned, or reused. See also section 29 of the UK's Petroleum Act 1998.

[92] In fact, under section 79(2)(i) of the extant Petroleum Industry Act 2021, following a commercial discovery of an oil field, the licensee is required to submit its field development plan, incorporating among other requirements, a decommissioning plan as well as decommissioning fund as prescribed in sections 232 and 233 of the Act.

[93] Brian F. I. Anyatang and Bassey E. Kooffreh, (n 15) at 118.

[94] See for example, Petroleum (Drilling and Production) Regulations 1969, regulation 36(2) and regulation 46(2).

[95] United Nations Environmental Programme (n 10) at 139; Damilola S. Olawuyi and Zibima Tubodenyefa, *Review of the Environmental Guidelines and Standards for the Petroleum Industry in Nigeria (EGASPIN)* (OGEES Institute, Afe Babalola University 2018) 1; Raphael J. Heffron and others, 'A Treatise for Energy Law' (2018) 11 Journal of World Energy Law and Business 34-48< https://doi.org/10.1093/jwelb/jwx039>.

[96] Statutory Instrument 14 of 1995 (now Cap. O7, Laws of the Federation of Nigeria, 2004).

[97] The DPR has now been replaced by two regulatory bodies under the extant PIA 2021; the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) for the upstream sector, while the Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) regulates the midstream and downstream sectors.

[98] OAGPR 1995, regulation 23(1) and (2).

[99] Ibid, Regulation 24(3)(b).

Environmental Guidelines and Standards for Petroleum Industry in Nigeria (EGASPIN) 2018[100]

EGASPIN provided wide-ranging standards for the decommissioning of oil and gas facilities.[101] A decommissioning plan, inclusive of the goals, remediation, and restoration steps, must be prepared at the project design phase.[102] The guidelines prescribed total and not partial decommissioning of seabed petroleum facilities with precautions for navigation or the marine ecosystem.[103] Upon acceptable execution, the DPR is required to issue a decommissioning certificate to the lease or licence holder.[104] Host communities are to be consulted to ensure that their interests and concerns are considered in the scheme of things, thereby building trust and reducing conflicts between host communities and the operators.[105] Although EGASPIN has made significant improvements on earlier regulatory regimes, a critical limitation lies in its legal status, as it was not passed by parliament[106] but merely issued as departmental guidelines, thus rendering its legality doubtful since it has never been judicially reviewed.[107]

Moreover, while the guidelines provided for the commencement of decommissioning within one year of the abandonment, it failed to stipulate the requirement for operating oil firms to report when an oilfield had been abandoned or production activities had been terminated. Hence, ostensibly, the timing of decommissioning was left entirely to the discretion of the oil companies. This was

[100] Though first issued in 1991 by the DPR, the guidelines have been revised in 2002, 2016, and 2018 respectively. As at December 2024, there have been no further revisions of EGASPIN, even though, with the recent enactment of the Petroleum Industry Act 2021, it is expected that the Nigerian Upstream Petroleum Regulatory Commission (NUPRC), which has replaced the erstwhile DPR, may likely issue another set of guidelines to ensure that the guidelines are in tandem with the extant PIA 2021. See generally, Damilola S. Olawuyi and Zibima Tubodenyefa (n 95) at iv.
[101] EGASPIN 2018, Part VIII-H.
[102] Ibid, Part VIII-G; Part VIII-H, section 1, paras. 1.1 & 1.1.1,
[103] Ibid, Part VIII-H, section 2, paras. 2.1, 2.1.1, 2.1.1.1, 2.2.2, 2.1.2.1.
[104] Ibid, Part VIII-H, section 1, para. 1.5.2.
[105] Ibid, Part VIII-H, section 1, para. 1.4.
[106] Constitution of the Federal Republic of Nigeria, 1999 (as amended), section 4 and Item 39 on the Exclusive Legislative List (contained in the Second Schedule to the Constitution) give the National Assembly the legislative powers to legislate on matters pertaining to 'mines and minerals, including oil fields, oil mining, geological surveys and natural gas.'
[107] Damilola S. Olawuyi and Zibima Tubodenyefa, (n 95) at 7; United Nations Environmental Programme (n 10) at 140-141.

besides the fact that financial obligation for decommissioning under the guidelines was vague. This is because EGASPIN did not appear to have required any evaluation of the likely costs of decommissioning in the decommissioning plan or enjoined licensees/operators to provide evidence that they were financially capable of undertaking decommissioning and/or who bore the decommissioning responsibility in the event of divestment of interests by the initial operator to new licensee. Therefore, in practice, EGASPIN was never efficiently implemented by the defunct DPR and was ineffective in addressing environmental concerns in Nigeria's oil-bearing communities.[108]

Petroleum Industry Act (PIA) 2021,[109] Nigeria Upstream Petroleum Decommissioning and Abandonment Regulations (NUPDAR) 2023[110] & the Midstream and Downstream Decommissioning and Abandonment Regulations (MDDAR) 2023[111]

Unlike the pre-PIA 2021 legal regimes, the PIA provides inclusive rules for decommissioning and abandonment of oil and gas facilities. It prescribes compliance with global excellent practices and IMO offshore guidelines,[112] requiring appropriate consent of NUPRC or the NMDPRA before commencement of operations;[113] but unsanctioned decommissioning attracts a prescribed penalty

[108] Stakeholder Democracy Network (SDN), *White Paper on Sustainable Closure and Decommissioning of Oil and Gas Assets in Nigeria* (SDN 2015) 4-5, <https://www.stakeholderdemocracy.org/wp-content/uploads/2016/06/Sustainable-Closure-and-Decommissioning-of-Oil-and-Gas-Assets-in-Nigeria.pdf>, accessed 5 February 2025; Paul S. Tamuno, 'Legal Response to Oil Pollution in the Maritime Environment: A Comparative Analysis of Nigeria, United Kingdom and the United States' (2021) 9(1) ABUAD Law Journal 72, 79; Ivy Munonye, 'An Appraisal of the Ogoni Remediation Exercise and the Paradigm Shift in Environmental Law' (2022) 9(1) Rivers State University Journal of Public Law 1, 9.
[109] Act No. 6 of 2021.
[110] Government Notice No. 94, S. I. No. 50 of 2023, *Federal Republic of Nigeria Official Gazette* No. 129, Vol. 110, B1321-1342 of 18 July 2023 (Lagos); came into force on 24 May 2023.
[111] Government Notice No. 73, S. I. No. 35 of 2023, *Federal Republic of Nigeria Official Gazette* No. 109, Vol. 110, B829-844 of 16 June 2023 (Lagos); came into force on 10 May 2023.
[112] PIA 2021, section 232(1).
[113] PIA 2021, section 233(2)-(3).

of USD$1,000,000,[114] which shall not be cost recoverable.[115] A licence/lease holder must submit a comprehensive decommissioning programme outlining relevant information, including cost assessments and specifics of the strategic steps for the decommissioning operation, and remain responsible for any outstanding liability.[116] The decommissioning operations must be consistent with sustainable ecological development,[117] technical/commercial guidelines or standards,[118] and involve consultations with relevant stakeholders, including host communities.[119]

The requirement for consultations is essential as it aligns with a universal benchmark that decisions/actions concerning environmental, health, and safety matters should best be taken only after adequate involvement of the host communities who may likely be impacted by the intended action and the proposed mitigation measures.[120] Therefore, it becomes imperative that before any petroleum model contracts are executed, the requirements pertaining to decommissioning and abandonment obligations and liabilities must be strictly adhered to.[121]

Another significant improvement introduced by the PIA is the requirement for an operator to prepare a decommissioning plan (DP), create and keep a decommissioning and abandonment fund (DAF). This is a precondition to be satisfied before an approval could be given for any upstream field DP after a

[114] That translates to about ₦1,525,550,185.00 at the rate of 1 USD to ₦1,525.55 as at 4 September 2025. See, Nigeria Upstream Petroleum Decommissioning and Abandonment Regulations (NUPDAR) 2023, regulations 24(5) and (6); and the Midstream and Downstream Decommissioning and Abandonment Regulations (MDDAR) 2023, Regulation 30(4) and (5).
[115] Nigeria Upstream Petroleum Decommissioning and Abandonment Regulations (NUPDAR) 2023, regulations 24(7).
[116] PIA 2021, section 232(5) and (6).
[117] Ibid, section 232(10)(d).
[118] Ibid, section 232(9).
[119] Ibid, section 232(8), NUPDAR, regulations 13, MDDAR, regulations 15 & 16. The law requires, inter alia, that adequate publicity of the consultation meeting should be widely circulated including publications in national and local newspapers and on the publicly accessible website of the licensee, at least 21 days before the public consultation holds, in addition to the submission of the public consultations report to the appropriate regulatory agency.
[120] Andrew Jordan and Tim Jeppesen, 'EU Environmental Policy: Adapting to the Principle of Subsidiarity?' (2000) 10(2) European Environment 64, 69-71 <https://doi.org/10.1002/SICI)1099-0976(200003/04)10:2<64::AID-EET2193.0.CO;2-Z)>.
[121] Ibid, section 232(4).

commercial discovery has been made[122] or grants of licence or permit renewal for midstream operations by the NMDPRA.[123] By this method, the Act adopts the global environmental law standard of the polluter-pays principle whereby the operators, rather than the government or taxpayers, bear the decommissioning costs. The approved annual contributions to the DAF must be held in an escrow account accessible to the regulators under the provisions of the escrow agreement[124] and subject to revision every 10 years.[125] The essence of this requirement is to guarantee that all petroleum assets are adequately provided for ahead of final cessation of production and that the decommissioning responsibilities, as projected by the operators, are sufficiently and steadily financed. Besides, with the revision clause, challenges such as inflation, current economic realities, supply chain demands, and the effect of emerging technologies on well decommissioning standards would be taken care of.

Failure by the licensee or lessee to either create or contribute to the DAF attracts payment of an administrative penalty and may also result in the revocation of the licensed or leased area. Where a party to a joint venture (JV) or production sharing contract (PSC) is the defaulter, aside from the penalty, the regulator would also authorise the seizure of crude oil comparable to the defaulted decommissioning obligations, plus the bill of lading with the name of the decommissioning escrow account as the recipient of the proceeds.[126] While contributions to the DAF are qualified for cost recovery and tax-deductibility, expenditures from the Fund are

[122] Ibid, section 79(2)(i).
[123] Ibid, sections 111(3)(c) and 111(4)(c).
[124] Ibid, sections 233(1) (4) and (5).
[125] Ibid, section 233(7).
[126] See MDDAR 2023, regulation 30(2)(3) and (6); NUPDAR 2023, regulations 24(2) - (4).

not,[127] and the residual amount in the DAF after approved decommissioning operations is refunded to the licensee or lessee.[128]

In addition, the PIA and the Regulations (NUPDAR 2023/MDDAR 2023) strictly require that the DAF shall wholly be utilised for payment of decommissioning costs.[129] This requirement is important because in the Ghanian Saltpond field case, the initial money set aside as 'seed money' for decommissioning was diverted to another purpose, and when the oilfield ultimately needed the funds for decommissioning, there were none in place as the oil firm had become bankrupt. The government was therefore forced to bear the costs, although the responsibility to decommission was originally on the contractor.[130] Although the decommissioning safeguards incorporated into the PIA reflect Nigeria's strong commitment to sustainable decommissioning, their effectiveness pivots on their actual implementation, such as the fiscal integrity of the decommissioning fund and the capacity for strict enforcement and monitoring by regulatory bodies, failing which the idealistic clauses of the law risk remaining aspirational rather than transformative and revolutionary.

SOME RELEVANT LEGAL REGIMES ON DECOMMISSIONING IN THE UK

The UK government considers matters pertaining to the decommissioning of oil and gas installations seriously. Actually, the UK's yearly budget for oil and gas decommissioning is considered through the Petroleum Revenue Tax (PRT) and the

[127] PIA 2021, sections 233(11) and 263(1)(e). The yearly contributions into the DAF will be tax-deductible expenses where basic preconditions are met, such as: the fund has been approved by the appropriate regulator and is held in an escrow account under the provisions of the escrow agreement; no disbursement is made from the account unless for the sole purpose of decommissioning and abandonment; and submission of yearly bank statement of account with the tax returns to the Federal Inland Revenue Service (FIRS). See Federal Inland Revenue Service, Clarification on Finance Act 2023 Amendment to Petroleum Profits Tax Act, Inform Circular No. 2023/09 of 29 December 2023, paras. 4.0-4.2 https://firs.gov.ng/pdf/CLARIFICATION_ON_FINANCE_ACT_2023_AMENDMENT_TO_PPTA.pdf, accessed 5 September 2025.
[128] Ibid, section 233(12) and 263(1)(e).
[129] Ibid, section 233(2), MDDAR 2023, regulations 26, and NUPDAR, regulations 21.
[130] Thomas Kojo Stephen and Theophilus Acheampong (n 86).

Oil and Gas Authority (OGA).[131] It is reported that the petroleum sector in the UK spent approximately GBP 2.4 billion (USD $3 billion) in 2024 for decommissioning of wells, pipelines, and offshore installations, and that the figure would keep rising in the coming years.[132] Igiehon had also predicted that in the years leading to 2025, more than 186 decommissioning projects were anticipated in the North Sea, out of which 153 projects would occur in the UK area, suggesting that the offshore oil and gas facilities in the UK sector were 'fast-moving into full-scale decommissioning'[133] with decommissioning spending spanning 2016-2025 in the UK area of the North Sea, forecasted to reach £17 billion.[134]

In another report by the North Sea Transition Authority, the UK North Sea, one of the leading global leaders in decommissioning operations, projects the sum of £21 billion to be spent between 2023-2032 on decommissioning of oil and gas platforms, while £1.6 billion was the UK's offshore oil and gas decommissioning spending for 2022.[135] Apart from the fiscal commitments to decommissioning, the UK government has also demonstrated its seriousness in fulfilling its global and regional obligations to decommissioning of petroleum facilities[136] through the instrumentality of national laws and policies made by the government, and which are examined hereunder.

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[131] See generally the Oil Taxation Act 1975 (as amended); OGA is an independent regulatory agency that evaluates decommissioning programmes based on costs, future alternative use of installations, and industry collaborations

[132] Nick Coleman, 'UK Oil and Gas Decommissioning Spend Nears $3 billion/year as Transition Pressures Grow: Report' < https://www.spglobal.com/commodity-insights/en/news-research/latest-news/crude-oil/111924-uk-oil-gas-decommissioning-spend-nears-3-billionyear-as-transition-pressures-grow-report>, accessed 7 January 2025.

[133] Mark Osa Igiehon, 'Decommissioning of Upstream Oil and Gas Facilities,' in Renad Younes (ed) *Oil and Gas: A Practical Handbook* (3rd edn, Globe Law and Business Ltd 2018) 291, 294.

[134] Ibid at 295.

[135] North Sea Transition Authority, *UKSC Decommissioning Cost and Performance Report 2023*, https://www.nstauthority.co.uk/news-publications/ukcs-decommissioning-cost-and-performance-report-2023, accessed 4 September 2025.

[136] For instance, the earlier discussed international and regional instruments like the Geneva Convention1958; UNCLOS 1982; OSPAR Convention; and OSPAR Decision 98/3, among others.

Petroleum Act 1998[137]

The legislation mandates operators of oil and gas facilities to decommission offshore installations belonging to them when the economic life of the oilfield ends. In a drawn-up decommissioning plan submitted to the Secretary of State (SoS), operators are mandated to delineate the actions to be undertaken towards decommissioning of disused installations. The intended programme of action must inter alia, disclose an estimate of the costs and time when the proposed measure would be undertaken, as well as make provisions regarding the continuing maintenance of the installations if it is planned that the installations would either be left intact or incompletely detached.[138]

The notice given under section 29 of the statute also requires the operators to pay for the costs of approving the decommissioning programmes.[139] Besides, the SoS is authorised to prepare a decommissioning programme either by reason of the operator's default in doing so or the submitted programme was rejected.[140] Section 28A of the Petroleum Act 1998 penalises the undertaking of decommissioning operations without the requisite approval. It is noteworthy that prior owners of oil and gas fields in the UKCS could be made responsible for the decommissioning of petroleum infrastructures that were drilled after the field had been sold or ownership transferred to another licensee.[141]

[137] Chapter 17 of 11 June 1998. The legislation has been amended several times since it came into force, including the amendments introduced by the Energy Act 2008 and the Energy Act 2016.
[138] Ibid, section 29(4)(a)-(c).
[139] Ibid, section 29(5).
[140] Ibid, see sections 29, 33, 36 and 39. It is to be pointed out that the Offshore Petroleum Regulator for Environment and Decommissioning (OPRED) is assigned with the task of ensuring that the requirements of the Petroleum Act 1998 are fulfilled.
[141] *Apache UK Investments Ltd v Esso Exploration and Production UK Ltd* (2021) EWHC 1283 (Comm).

Energy Act (EA) 2008[142]

The legislation complements the clauses of the 1998 Petroleum Act in various vital areas regarding decommissioning responsibilities for petroleum facilities and allied infrastructures. Specifically, the statute in its section 30 modified the clauses of Part IV of the Petroleum Act as it expanded offshore decommissioning to cover carbon storage installations. The SoS can mandate operators to submit, update, and implement decommissioning programmes for offshore installations, including wells.[143] This is to ensure that operators comply with a structured and government-standard decommissioning procedure.

The law also widened the scope of liability for decommissioning costs to cover previous owners, licensees, or operators that may have profited from the asset during its operational life.[144] This is aimed at preventing operators from escaping decommissioning costs by transferring ownership or extant operations without satisfying their responsibilities and thereby reinforces the Petroleum Act 1998, which previously concentrated on current licenced holders and owners.[145] This is a positive step as it prevents initial licensees from reassigning ageing and depleting installations, structures, or pipelines to weaker oil operators in order to avoid decommissioning obligations.[146] The SoS is also empowered to direct operators and licence holders to provide financial security for decommissioning.[147] The importance of this clause is to ensure that operators possess the financial means to

[142] Chapter 32 of 28 November 2008. The Act has been amended by the Energy Act 2016, which inter alia, created the Oil and Gas Authority (OGA) as an independent regulator tasked with increasing economic recovery of offshore UK petroleum. The OGA is also required to advise the SoS on alternatives to abandoning or decommissioning the installation or pipelines, such as reusing or preserving it, among others.
[143] Energy Act 2008, section 72, and Petroleum Act 1998, section 30.
[144] Ibid, section 73.
[145] Petroleum Act 1998, section 38.
[146] For example, this extended liability clause was employed in holding Shell UK Ltd and its previous joint venture partners responsible for the decommissioning costs of the Brent oilfield, including well plugging and removal of installation, even after transferring the North Sea assets- see, Shell U.K. Limited, 'Brent Field Decommissioning Programme Submitted to the UK Department for Business, Energy and Industrial Strategy,' <https://assets.publishing.service.gov.uk/media/5e6f5c8886650c727b2f4743/Brent_Field_Pipelines.pdf>, accessed on 5 February 2025.
[147] Energy Act 2008, section 74.

execute well-plugging and abandonment, infrastructure removal, and site clean-up. In order to ensure that operators discharge their obligations to decommission wells and site restoration, the statute criminalises the lack of compliance with decommissioning commitments and approved programmes.[148]

The EA 2008 likewise introduced new sections 38A and 38B to the original section 38 of the Petroleum Act 1998. Section 38A now provides fortification to funds dedicated to the decommissioning programme. It is basically fashioned out to guarantee that in a situation of financial distress of anyone answerable for decommissioning obligations or an individual assigned responsibility under the decommissioning programme, the fund dedicated to accomplish those responsibilities is accessible for the intended purpose and is inaccessible to the creditors.[149]

In addition, by requiring dedicated funds for decommissioning, the UK government seeks to allay the possibility of offshore installations being left in an unsafe manner because of a paucity of funds from the operators.[150] Section 38B empowers the SoS to direct a security provider to supply detailed information concerning the protected assets devoted to decommissioning obligations. The section can be utilised by the government to ensure that the operators are transparent and that sufficient financial arrangements for decommissioning have been put in place to prevent taxpayers from funding decommissioning operations.

Decommissioning of Offshore Oil and Gas Installations and Pipelines Guidance Notes 2018 (DGN 2018)

The DGN was first published in 2000 and has since then undergone several revisions by the Department for Business, Energy and Industrial Strategy, including the November 2018 edition. By paragraph 1 of the DGN, the government's primary decommissioning objective is to attain efficient and fair

[148] Ibid, section 75(7) and (8).
[149]UK Parliament, 'House of Commons-Explanatory Note,' <https://publications.parliament.uk/pa/cm200708/cmbills/053/en/08053x-f.htm>, accessed 5 February 2025.
[150] UK Government, 'Guidance Notes-Gov.Uk,' <https://assets.publishing.service.gov.uk/media/5c00f3f3e5274a0fdaaaa0f7/Decom_Guidance_Notes_November_2018.pdf>, accessed 5 February 2025.

decommissioning results that are compatible with global responsibilities and have adequate consideration for security, the environment, and other lawful users of the ocean, socio-economic, and technical viability. The decommissioning policies are highlighted by two vital environmentally sustainable development philosophies of precautionary and polluter-pays principles.[151] This is commendable because while the precautionary principle helps the government in decision-making when confronted with a lack of scientific certainty in the decommissioning process, the polluter-pays principle ensures that the costs of the decommissioning activities are borne by the operators rather than the government or persons/communities suffering the consequences of the environmental damage.[152]

In line with its global obligations, the UK government incorporated into the DGN pertinent decommissioning clauses from the UNCLOS, 1972 London Convention and its Protocol, 1989 IMO Guidelines and OSPAR Convention alongside its domestic laws.[153] Chapters 5 and 10 detail the decommissioning stages, cross-median project administration, and the decommissioning approach on the UKCS, whereas chapters 15 and 17 handle post-decommissioning monitoring and residual liability. The Offshore Petroleum Regulator for Environment and Decommissioning (OPRED) is required to submit a report to OSPAR on disposal implementation, consequences, and compliance.[154] In effect, the DGN provides a framework for preparing and compiling petroleum decommissioning programmes in conjunction with applicable international, regional, and national legislation, with residual liability placed on operators in perpetuity. [155]

[151] DGN, para. 1-1.
[152] UK Department for Environment, Food & Rural Affairs, Policy Paper: Environmental Principles Policy Statement (Updated 31 January 2023) <https://www.gov.uk/government/publications/environmental-principles-policy-statement/environmental-principles-policy-statement> , accessed 4 September 2025.
[153] DGN, paras. 1-4-1.7 and Chapter 2; Brain F. I. Anyatang and Bassey E. Kooffreh (n 15) at 120-121.
[154] Ibid, para. 15.3.
[155] Ibid, para. 17.2.

GHANA'S PETROLEUM INDUSTRY AND DECOMMISSIONING LAWS

Though Ghana had made various attempts at petroleum exploration activities since 1896 in the onshore Tano basin,[156] such efforts did not result in a significant breakthrough, regardless the modest discovery of oil made in 1970 with drilling beginning in October 1978 from the Saltpond field.[157] The expectation for oil and gas discovery was what considerably contributed to creating the Ghana National Petroleum Corporation (GNPC) in 1983[158] as a calculated business initiative for oil exploration.[159] After several years of limited breakthroughs in onshore/offshore oil exploration activities, Ghana finally became a petroleum producing country when a commercial oil find was made in 2007 at the West of Cape Three Point (WCTP) offshore field in the Western region,[160] though oil production began in 2010[161] with other significant discoveries and productions made later.[162] While evidently, Ghana's discovery of oil has boosted the country's economy,[163] environmental concerns, including issues relating to decommissioning, should not be taken lightly, as the ongoing offshore Saltpond field decommissioning operations have demonstrated. Therefore, it becomes imperative for Ghana to put in place effective national decommissioning laws that align with the best global

[156] Ghana Petroleum Commission, 'Exploration History' <https://petrocom.gov.gh/exploration-history/>, accessed 5 February 2025.
[157] Thomas Kojo Stephens (n 20) at 84-85.
[158] GNPC Act, 1983 (PNDCL 64), section 1(1); later, the Petroleum Commission was established in 2011 vide the Petroleum Commission Act, 2011 (Act 821) to regulate and manage petroleum resources in Ghana- see sections 1 and 2 thereto.
[159] Ibid, GNPC Act, 1983, section 2; Asaah Sumaila Mohammed, Emmanuel Graham, and Stanley K. Dary, 'Rising Expectations and Dying Hopes: Local Perceptions of Oil and Gas Extraction in Ghana' (2022) 88 Energy Research & Social Science 102529 <https://doi.org/10.1016/j.erss.2022.10252>.
[160] VOA, 'Ghana Begins Pumping Oil,' *Voice of America* (Washington D.C., 15 December 2010) <https://www.voanews.com/amp/ghana-begins-pumping-oil-111921444/157052.html>, accessed 5 February 2025.
[161] David Amanor, 'Ghana Oil begins Pumping for First Time,' *BBC News* (London, 15 December 2010), <https://www.bbc.com/news/world-africa-11996983>, accessed 6 February 2025.
[162] Ayodele Oluwagbemi, 'Ghana's Ten to Pump first Oil on Thursday,' *Punch* (Lagos, 17 August 2016), <https://punchng.com/ghanas-ten-pump-first-oil-thursday/?amp>, accessed 5 February 2025; Ghana Energy Database System, 'Oil-Key Findings,' < https://gheatoolkit.energycom.gov.gh/Analysis/Oil>, accessed 5 February 2025.
[163] Business and Economy, 'Ghana Joins Ranks of Oil Producers,' *Aljazeera* (Doha, 15 December 2010), <https://www.aljazeera.com/amp/economy/2010/12/15/ghana-joins-ranks-of-oil-producers>, accessed 6 February 2025.

and regional practices' requirements. The imperativeness arises from the fact that, as Ghana operates a dualistic legal system, international treaties must be specifically domesticated before having a binding force.[164]

Petroleum (Exploration and Production) Act 1984 (P.N.D.C.L. 84)

The statute required that, following the cessation of petroleum activities, the relevant area should be restored by the operator and all causes of harm or threat to the affected environment eliminated as prescribed by regulations.[165] From its textual formulation, the legislation prescribed total decommissioning or removal. Although the law authorised the Secretary to make regulations concerning petroleum activities,[166] no such regulations were made to fashion out standards and responsibilities which operators were to satisfy, including funding, security, and financing of decommissioning processes.[167] The legislation was later repealed by section 97 of Act 919 of 2016.

Petroleum (Exploration and Production) Act 2016 (Act 919)

An operator of a petroleum facility is required to submit a decommissioning plan to the appropriate Minister not exceeding 5 years or later than 2 years prior to the time when utilisation of the facility involving the decommissioning plan is anticipated to permanently stop operation or the applicable licence or petroleum agreement will terminate.[168] The Minister may approve or disapprove the development programme; where it is approved, the Minister will stipulate a schedule for implementation of the programme. Conversely, where the approval was withheld, the licence holder or contractor would be notified in writing.[169] The

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[164] 1992 Ghana's Constitution, Chapter VIII, Article 75; Julia Selman Ayetey and Bolanle T. Erinosho, 'International Law in Ghana: A Study of the Attitudes, Knowledge and Use of International Law by Judges and Lawyers' (2023) 31(2) African Journal of International and Comparative Law 253-274 <https://doi.org/10.3366/ajicl.2023.0446>; Godwin E. K. Dzah, 'Transcending Dualism: Deconstructing Colonial Vestiges in Ghana's Treaty Law and Practice' in Michael Addaney, Michael Gyan Nyarko, and Elsabe Boshoff (eds) *Governance, Human Rights, and Political Transformation in Africa* (Palgrave Macmillan, Cham 2020) 117-147<https://doi.org/10.1007/978-3-030-27049-0_6>.
[165] Petroleum (Exploration and Production) Act 1984, Section 28.
[166] Ibid, section 32(2)(a) and (v).
[167] Thomas Kojo Stephens (n 142) at 87-91.
[168] Petroleum (Exploration and Production) Act 2016, section 43(1) and (2).
[169] Ibid, section 44(1) and (2).

likely reason for communicating the disapproval in writing to the operator is to enable it to become aware of the grounds for the rejection and, if possible, make necessary corrections to the representation of the programme.

To ensure that sufficient monetary provisions are available for petroleum installations' decommissioning processes at the end of their useful life, section 45 makes provision for a decommissioning fund[170] and called on the licence holder or contractor to create such a fund with the Bank of Ghana (BoG) operating as independent trustee to manage the Fund in line with guidelines provided by the Minister of Energy.[171] Where a contractor intends to abandon a well, it is under an obligation to notify the Petroleum Commission of its decision[172] for due authorisation and proper execution.[173]

Similarly, an assignor of an interest in a petroleum contract has resulting accountability for financial responsibilities for the expenses of executing the decommissioning programme.[174] The possible reason for this requirement is that where the assignee fails to entirely satisfy its obligations, the government can require another entity to assist in fulfilling the obligation. In such a situation, the assignor's financial commitment would be restricted to expenses regarding petroleum installations, including wells, existing at the time the assignment was made, and is additionally constrained to a proportion of the assigned equity participation.[175]

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[170] In 2024, Ghana launched its pioneer Decommissioning Fund to take care of the costs of decommissioning the Jubilee Field at the close of the field's production life- see, B & ET Online, 'Tullow, Partners Set up 'Decommissioning Fund' for Jubilee Field' (8 April 2024) <https://thebftonline.com/2024/04/08/tullow-partners-set-up-decommissioin-fund-for-jubilee-field>, accessed 4 September 2025.

[171] Thomas Kojo Stephen and Theophilus Acheampong (n 86).

[172] Petroleum (Exploration and Production) Act 2016, section 95. The Petroleum Commission is created under the Petroleum Commission Act 2011 (Act 821).

[173] Petroleum (Exploration and Production) Act 2016, sections 46 and 47. Section 47 of the legislation has similar language with section 28 of the repealed 1984 Act which prescribed complete decommissioning. However, there are clauses in the 2016 Act which suggest that installation's removal may be either total or partial - see for example, section 43(6)(a)(b) and (c) of the 2016 Act.

[174] Ibid, section 44(8).

[175] Ibid, section 44(7); Thomas Kojo Stephens (n 20) at 96.

Deriving insights from the Saltpond oilfield experience, the law mandates a licensee or contractor to furnish the Minister for Petroleum with the performance bonds or guarantees as security for satisfaction of obligations and for likely liabilities that may occur from the undertaken petroleum operations.[176] Usually, such a bond or security guarantee is a financial assurance from a bank or insurance firm to ensure that, where the contractor or licensee fails to fulfil the obligations, the bond issuer or surety would be held accountable for the debt or default.

Petroleum (Exploration and Production) (Health, Safety and Environment) Regulations, 2017 (L. I. 2258)

The HSE regulations explicitly provide for decommissioning and abandonment under regulations 166-169. With respect to the decommissioning, abandonment, and removal of petroleum facilities, the regulations prescribed that the licensee or contractor should ensure that a petroleum facility or part of it is decommissioned, abandoned, or removed circumspectly.[177] Thus, it seems logical to infer that while complete decommissioning may be the typical practice in Ghana, the regulations also permit partial decommissioning where the prevailing circumstances warrant.[178]

Petroleum (Exploration and Production) (General) Regulations, 2018 (L. I. 2359)

Procedures relating to decommissioning and removal of petroleum facilities are stated in regulations 61-65; regulation 61 explicitly reinforces the need for a licensee or contractor to submit the decommissioning plan in a prescribed manner as required under the principal statute.[179] In addition to the requirements made in section 47 of the enabling Act, a licensee or contractor shall ensure that it restores the area affected by petroleum activities as near as possible to its primordial state.[180] Moreover, the operator has obligation to submit its decommissioning report not later than 3 months after the decommissioning work had been

[176] Ibid, Act 919, section 58.
[177] Petroleum (Exploration and Production) (Health Safety and Environment) Regulations, 2017, Regulation 169(2).
[178] Thomas Kojo Stephens (n 20) at 99-100.
[179] Act 919 of 2016, section 43.
[180] Petroleum (Exploration and Production) (General) Regulations, 2018, regulation 63.

concluded.[181] Recognising that decommissioning could be either total or partial, the regulations mandate that where the implementation of the decommissioning plan entails total or partial decommissioning of installations, the relevant contractor or licensee would be jointly and severally held accountable for any damaging consequences occasioned by the disused equipment or partially deserted installation following the expiration of the licence or hydrocarbon contract.[182]

SYNOPSIS OF COMPARATIVE ANALYSIS AND LESSONS FOR NIGERIA

Nigeria, like the UK and Ghana, is a signatory and party to various global and regional instruments on decommissioning and owes corresponding obligations to ensure that its decommissioning operations conform to international standards. The study revealed that the UK has a well-defined regulatory framework on decommissioning, ensuring observance of global best practices. Similarly, Ghana has enhanced its decommissioning regime under the extant 2016 Act and several other municipal regulations that incorporated global standards, unlike under the 1984 legislation, which lacked critical clauses on decommissioning. Nigeria, following the enactment of the PIA 2021 and its incidental decommissioning regulations, has made substantial advancement towards a more structured and defined decommissioning sustainability governance, a clear departure from the fragmented situation under the pre-PIA 2021 regime.

Moreover, in all the selected jurisdictions examined, it was apparent that while the domestic laws, global and regional instruments prescribed total decommissioning, in appropriate cases, partial decommissioning may be permitted. Actually, some authors have argued that partial decommissioning is usually deemed to be a preferable alternative for the environment than total decommissioning, particularly when it relates to offshore installations and structures.[183] They contend that leaving

[181] Ibid, regulation 64(1).
[182] Ibid, regulation 65(1) and (3).
[183] Shahriar Shams and others, 'An Assessment of Environmental Impact on Offshore Decommissioning of Oil and Gas Pipelines' (2023) 10 Environment 104-119 <https://doi.org/10.3390/environments10060104>; Vanessa Spielmann and others, 'Decommissioning of Offshore Wind Farms and its Impact on Benthic Ecology' (2023) 347 Journal of Environmental Management 119022 <https://doi.org/10.1016/j.jenvman.2023.119022>; R.

part of the structures in situ can sometimes enhance new habitats for marine life and safeguard biodiversity, unlike complete removal, which can adversely affect the extant ecosystems.[184] Hence, national, regional, and international laws may prescribe total removal but with flexibility to allow partial removal if specific requirements are met, depending on environmental concerns and navigational safety.[185] The primary validation for specifying total removal of offshore facilities is, inter alia, due to navigational safety and maritime pollution prevention resulting from abandonment of such installations.[186]

Notwithstanding the likely merits associated with incompletely removed offshore facilities, environmental concerns abound in relation to the partial removal of onshore facilities. It could result in damage caused to the environment when petroleum residues, harmful, and other chemical waste materials escape into the soil and underground water. This is apart from its denting the environment as well as endangering human health and security. As noted, in the Niger Delta area of Nigeria, ageing and abandoned facilities have resulted in constant hydrocarbon leaks, causing ongoing environmental damage that seriously endangers the host communities and their dependence on the environment for food, water, and means of livelihood.[187]

Flowing from the discussions in the paper, there are some insights Nigeria can draw from the decommissioning operations in the comparator countries. First, the UK has published projected financial plans towards its decommissioning operations, at times decades before they are eventually needed,[188] whereas Nigeria

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Hall, E. Topham, and E. Joao, 'Environmental Impact Assessment for the Decommissioning of Offshore Wind Farms' (2022) 165 Renewable and Sustainable Energy Reviews 112580 <https://doi.org/10.1016/j.rser.2022.112580>.

[184] Ibid.

[185] Sarah M. Watson and others, 'Offshore Decommissioning Horizon Scan: Research Priorities to Support Decision-Making Activities for Oil and Gas Infrastructure' (2023) 878 Science of the Total Environment 163015 <https://doi.org/10.1016/j.scitoenv.2023.163015>.

[186] Erika J. Techera and John Chandler, 'Offshore Installations, Decommissioning and Artificial Reefs: Do Current Legal Frameworks Best Serve the Marine Environment?' (2015) 59 Marine Policy 53-60 <https://doi.org/10.1016/j.marpol.2015.04.021>.

[187] S. J. Olukaejire and others, 'Petroleum Exploration in the Niger Delta Region and Implications for the Environment: A Review' (2024) 16(5) Journal of Energy Research and Reviews 19, 23-26.

[188] See for example, Statista, 'Oil and Gas Decommissioning Costs in the UK 2021-2062' (11 August 2025) <https://www.statista.com/statistics/1469486/uk-oil-and-gas-decommissioning

lacks official decommissioning budget publications, and it is doubtful if the country has any in place. This tacitly exposes the likely nonchalant attitude of Nigeria towards decommissioning operations.

Second, the UK has entrenched regulatory and institutional frameworks for its decommissioning operations, which Nigeria and Ghana have a lot to gain from. On the contrary, the Nigerian government and its regulatory bodies have often been criticised for lacking in political will towards the implementation and enforcement of its laws.[189] For instance, while the PIA mandatorily requires that oil licensees/lessees submit to the NUPRC for approval their field development plans, incorporating a decommissioning and abandonment plan (DAP) as well as the DAF,[190] a recent annual report by the Decommissioning and Abandonment Unit of the NUPRC disclosed that about 26% of the operators/entities engaged by the unit were still in default of submission of their DAP.

However, the report failed to disclose whether the penalty/sanction prescribed under the law for such default had been meted out to the defaulting operators and if the defaulters had complied with the sanction.[191] By regulations 24(1) & (2) of the NUPDAR 2023, failure to submit a DAP or set up a DAF within the prescribed time attracts an administrative penalty of USD$500,000 for every year of non-compliance or cancellation of the licence/lease. Therefore, strict application and execution of the laws are paramount if Nigeria's decommissioning operations will harmonise with global best practices, alongside achieving the worthy objectives spelt out in the PIA.

Third, concerning liability for decommissioning, the UK's Energy Act 2008 (as amended) expanded the purview of accountability for decommissioning costs to

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spending/#:~:text=Published%20by20Statista%20Research%20Department,than%20in%20any%20other%20decades>, accessed 4 September 2025.

[189] Eghosa Osa Ekhator, 'Public Regulation of the Oil and Gas Industry in Nigeria: An Evaluation' (2016) 21(1) Annual Survey of International & Comparative Law 43, 89-90.

[190] PIA 2021, sections 79(2)(i), 232 and 233.

[191] See Nigerian Upstream Petroleum Regulatory Commission, *The Nigerian Upstream Petroleum Regulatory Commission 2024 Annual Report*, 1, 31 <https://www.nuprc.gov.ng/wp-content/uploads/2025/04/UPDATED-NUPRC-2024-ANNUAL-REPORT-1.pdf>, accessed 5 September 2025. It is pertinent to state that section 24(9) and (10) of the PIA 2021 saddles the NUPRC with the responsibility of presenting the yearly report of its operations, performance, and an audited financial account to the Minister of Petroleum Resources.

cover previous owners and operators that may have benefited from the assets in the course of its productive life. This would prevent a situation whereby previous owners of installations would transfer outdated installations to weaker oil operators in order to escape liability for decommissioning. Similarly, in Ghana, strict liability rests on the operator as well as resultant liability for assignors. But, under the Nigerian law, where ownership in the licence has been divested, the decommissioning responsibilities shall be on the assignee,[192] unless, as at the date of the divestment, the accumulated decommissioning fund was insufficient to cover the decommissioning liabilities, then the assignor/transferor would provide a security in the form of a bank guarantee[193] or make a cash deposit to the DAF to cover the needed sum.[194]

Considering the earlier noted divestments of onshore assets by some international oil companies (IOCs) to local oil firms,[195] this implies that where the local transferee is unable to meet the financial costs for decommissioning, the burden may be transferred to the Nigerian government to use its revenue or taxpayers' money to fund the operations. There have been some uncertainties and suspicions by host communities, for example, concerning whether SPDC, which finally divested its onshore assets in March 2025 to Renaissance Africa Energy Holdings (a consortium of five local oil firms),[196] had created a DAF to cover the decommissioning of the assets it had sold.[197] Often, the transferee may not be abreast with the full scope of the decommissioning work or the statutory compliance level by the former owner, and therefore, the exact decommissioning

[192] NUPDAR 2023, regulation 17(1)(d).
[193] For a detailed discussion on financial securities for decommissioning, see N. Chinwa Ole, 'The Financial Securities for Decommissioning of Offshore Installations in Nigeria: A Review of the Legal and Contractual Regime' (2017) 15(1) Oil, Gas & Law Intelligence 1-20.
[194] Midstream and Downstream Decommissioning and Abandonment Regulations 2023, regulations 29(1).
[195] C Mitchell (n 79).
[196] Shell, 'Shell Completes Sale of SPDC to Focus its Portfolio in Nigeria on Deepwater and Integrated Gas Positions' https://www.shell.com/news-and-insights/newsroom/news-and-media-releases/2025/shell-completes-sale-of-spdc.html, accessed 4 September 2025.
[197] Sandra Laville, 'Shell Must Clean up Pollution before it Leaves Niger Delta, Report Says' *The Guardian* (London, 28 February 2024) https://www.theguardian.com/environment/2024/feb/28/shell-must-clean-up-pollution-before-it-leaves-niger-delta-report-says , accessed 5 September 2025.

costs may not have been factored into the initial contractual negotiations between the parties.[198]

A report by the Boston Consulting Group (BCG) observed that most oil firms globally only possess about 5-10% of facilities' retirement liability evaluations projected to all-inclusive engineering investigations or expert advice. Consequently, the absence of quality data/information and unrealistic assessments of projected decommissioning costs could account for unpreparedness for actual decommissioning operations of petroleum facilities and which may have necessitated some of the investment transfers.[199] We recommend, therefore, that Nigeria should adopt the UK stance where previous owners cannot escape liability even after transferring their assets.

It is commendable that the PIA 2021 mandates operators not only to have a decommissioning plan[200] but also to create and keep a decommissioning fund to be held by a fiscal establishment with no affiliation with the licensee or lessee.[201] Advantages abound in preparing a decommissioning and abandonment plan ahead before the field becomes unproductive; early planning will enhance adherence to legal and regulatory compliance. In financial terms, decommissioning is expensive, and thus, having a decommissioning plan in place allows operators to estimate costs correctly and put proper strategies in place before cessation of operation.

Regardless of the worthy goals for the legal requirements enjoining licensees/lessees to create DAF, there are still some concerns and transparency gaps surrounding the issue of funding in Nigeria, as there is no means of ascertaining or establishing 'how much funding companies have or have not set

[198] Adebowale Adeniyi, 'Nigeria: Key Considerations on Decommissioning & Abandonment Costs in Nigeria' (31 July 2019) *Mondaq* <https://share.google/hhVndgtSIUmDTugxv> accessed 4 September 2025.
[199] Ibid; Eric Oudenot and others, 'Preparing for the Next Wave of Offshore Decommissioning,' The Boston Consulting Group Inc., 2018 <https://web-assets.bcg.com/img-src/BCG-Preparing-for-the-Next-Wave-of-Offshore_decommissioning-Apr-2018-NL_tcm9-188833.pdf >, accessed 4 September 2025.
[200] PIA 2021, section 79(2)(i).
[201] Ibid, section 233.

aside,'[202] since there are no official publications made available to the public to that effect by the regulatory bodies or the oil companies. Moreover, how do the regulators determine the adequacy of the fund? What happens if the created fund becomes inadequate to finance the decommissioning project when the oilfield becomes exhausted and the licensees/lessees do not have the required money to make up for the shortfall? There is also a need for the regulators to properly monitor the operators to ensure their sustained contributions to the DAF after the initial contributions. The reason for this suggestion is that in the Ghanaian Saltpond oilfield decommissioning case, it was discovered that after the initial contributions into the created decommissioning fund, there was no proper monitoring to ensure that subsequent contributions were followed through, and consequently, when the field became unproductive, there was no money for the decommissioning.[203]

The above scenarios or concerns would definitely create significant challenges for the completion of the projects and may put financial burdens on the government in the future if not properly handled. Possibly, one way to address the problems and avert the financial burden being transferred to the government is that Nigeria can adopt the Ghanaian option of demanding performance bonds or guarantees as security for fulfillment of decommissioning commitments, as depletion of funds should not exculpate an operator from satisfying its obligations.[204] Another way is by demanding a letter of guarantee from parent companies undertaking to be bound by the decommissioning obligations of their subsidiary companies in Nigeria. The recent denial of responsibility by Shell concerning its Nigerian subsidiary's (SPDC) clean-up and decommissioning liabilities before a London High Court should be a big lesson to Nigeria.[205]

With respect to the placement of the decommissioning fund, while in the UK, there is no central fund created, but the Petroleum Act 1998 vests the obligation and cost

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[202] Sandra Laville (n 197).
[203]Thomas Kojo Stephen and Theophilus Acheampong (n 86).
[204] NUPDAR 2023, regulations 21(6).
[205] Damien Gayle, 'Nigerian King Faces Shell in London High Court over Decades of Oil Spills' *The Guardian* (London, 7 March 2025) <https://www.theguardian.com/world/2025/mar/07/nigerian-king-faces-shell-london-high-court-decades-oil-spills>, accessed 5 September 2025.

burden for decommissioning explicitly on the asset owners/operators, and this entails companies allocating their own funds or providing a financial guarantee for decommissioning[206] in Ghana, the decommissioning fund is kept in an escrow account by the BoG. Comparably, under section 233(1) of the PIA 2021, the fund is held in the form of an escrow account, although by a 'financial institution' that is not an associate of the licence or lease holder. Neither the PIA nor its subsidiary regulations have specifically defined the phrase, 'financial institution;' but generally, a financial institution is an organisation that deals with financial and monetary transactions like deposits, loans, investments, and includes a 'tier 1 commercial bank' licensed by the Central Bank of Nigeria (CBN).[207] Considering recent liquidity and insolvency issues among Nigerian banks,[208] holding the fund in a 'failed commercial bank' could portend danger for the intended decommissioning operations. This explains why the Ghanaian position, whereby the fund is kept with the BoG, is laudable.

However, in a July 2024 exposure draft amendment introduced to the NUPDAR 2023 by the NUPRC,[209] the rules emphasised that the DAF should be kept in an approved financial institution (FI) locally or abroad if they satisfy the requisite credit ratings of A+ or A.[210] But for IOCs in joint ventures with the Nigerian

[206] Ibragim Khalidov and others, 'Decommissioning of Oil and Gas Assets: Industrial and Environmental Security Management, International Experience and Russian Practice' (2021) 7(7) Heliyon e07646 <https://doi.org/10.1016/j.heliyon.2021.e07646>.

[207] MDDAR 2023, regulations 24. A tier 1 commercial bank commonly refers to a financially stable bank with a robust capital base held in a bank's reserve and is able to remain solvent during adverse financial situations and economic downturns.

[208] Samuel O. Fadare, 'Banking Sector Liquidly and Financial Crisis in Nigeria' (2011) 3(5) International Journal of Economics and Finance 1-11 <https://doi.org/10.5539/ijef.v3n5p3>; U. Kama, 'Banking Sector Crisis and Resolution Options in Nigeria' (2010) 34(1) Bullion 7-18.

[209] The exposure draft Amendment to the Nigerian Upstream Petroleum Decommissioning and Abandonment Regulations 2024 (ANUPDAR) is available at <https://www.nuprc.gov/ng/wp-content/uploads/2024/06/AMENDMENT-TO-DECOMMISSIONING-AND-ABANDONMENT.pdf>, accessed 5 September 2025. However, as at the time of writing, the authors were unable to confirm if the said draft amended regulations have come into force.

[210] Ibid, paragraph 6(a) which amended regulation 19(4) of the principal Regulations 2023 and substituted it with a new regulation 19(4). Under the NUPDAR 2023, the Decommissioning Fund was required to be in an escrow account held by the Central Bank of Nigeria (CBN). The regulator (NUPRC), in partnership with the CBN and the licensee/lessee were required to create guidelines for managing the Funds kept by the CBN- see NUPDAR 2023, regulations 19(7). But, in the draft amendment introduced by ANUPDAR 2024, only the NUPRC is now responsible for the issuance

National Petroleum Company Limited (NNPCL) or under production sharing contracts (PSCs), a minimum of 15% of their yearly contribution must be deposited locally, while the remaining can be placed in a qualified foreign bank with at least a credit rating of A+.[211] Where any foreign FI falls below the accepted credit ratings, the licensee/lessee must, within 30 days, apply to the appropriate regulator to change the FI to another qualified one.[212] Generally, these innovative developments and emphasis on the proposed bank's credit ratings and robust financial 'stress test' level[213] are all geared towards ensuring the security and availability of the DAF when eventually needed.

Nevertheless, we argue that usually, subsidiary regulations comprise a vital component of the legal regime in the Nigerian oil and gas industry,[214] but it should not be at variance with the enabling law. If any provisions of the secondary regulations are inconsistent with the provisions of the principal statute, the inconsistent clauses of the subordinate legislation would be held to be a nullity to the extent of such inconsistency.[215] This is because a subsidiary law derives its existence from a principal statute, like the PIA, and so, a subsidiary law must conform to the enabling statute. To address the ostensible legal uncertainty concerning the 'fund placement' clauses, it is suggested that the provisions of the PIA and the incidental decommissioning regulations should be modified to overtly state where the escrow account should be maintained. One way of doing this is by providing a definition of the phrase 'financial institution' under the PIA to accommodate the CBN and other local or foreign financial institutions mentioned in the respective regulations.

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of guidelines periodically for the management of the decommissioning funds and enforcement of the Regulations- see exposure draft ANUPDAR 2024, paragraph 8.

[211] Ibid, paragraph 6(b).

[212] Ibid, paragraph 7.

[213] MDDAR 2023, regulations 24(7).

[214] Eghosa Osa Ekhator (n 189) at 62.

[215] *NNPC v Famfa Oil Ltd* (2012) 17 NWLR (Pt. 1328) 148; *Mobil Producing (Nig) Unlimited v Johnson* (2018) 14 NWLR (Pt. 1639) 329; *Attorney-General, Federation v Attorney-General, Abia State* (2001) 4 NWLR (Pt. 703) 314.

CONCLUSION

Decommissioning of oil and gas assets is a predictable phase in the petroleum sector, and its regulatory regime possesses extensive consequences on environmental resilience, financial stability, and community wellbeing. In the Nigerian setting, with almost seven decades of oil and gas extraction and an increasing number of ageing and disused installations, the imperative for creating a reliable and strong decommissioning regulatory framework cannot be overemphasised. Before the enactment of the PIA 2021, most of the national laws and regulations lacked direct provisions relating to the decommissioning of petroleum assets. Often, a licensee or lessee was only required to plug any unutilised wellhead to stop the escape of petroleum discovered or obtained from applicable areas; issues pertaining to decommissioning costs and liabilities for disposal were also indeterminate and vague.

With the commencement of the PIA 2021 and its incidental regulations, Nigeria has made significant advancement towards ensuring that decommissioning and abandonment of hydrocarbon wells, facilities, pipelines and ancillary infrastructures are conducted in good global petroleum industry practices and consistent with guidelines set by the IMO. While the PIA 2021 and its subsidiary guidelines represent a pivotal turning point in Nigeria's decommissioning governance, gaps in execution, weak enforcement, budgetary uncertainties, and institutional capacity still weaken the efficacy of the system. Obviously, strict implementation of the decommissioning rules safeguards that operating oil firms satisfy their statutory obligations, averts environmental and health hazards from derelict infrastructures, encourages institutional accountability, builds host communities confidence and prevents the government from bearing decommissioning costs, along with creating investment opportunities through the recovering, repurposing and recycling of valuable discarded materials, and thus, reinforcing ecological integrity and the regulations.

Comparing Nigeria's governance with the UK and Ghana provided helpful lessons; the UK reveals the benefits of an advanced, transparent, and clearly-defined legal frameworks and implementation that harmonises ecological considerations with practical and financial safeguards. Ghana, although yet an emerging petroleum producer, amplifies the significance of early preparation and

proactive approach in steering sustainable decommissioning practices, particularly, with the practical experience it is undergoing in its first decommissioning of the Saltpond oilfield.

The comparator countries' examples underline that both developed and evolving oil and gas producers can offer models for Nigeria in consolidating its regulatory governance system. For Nigeria, the exigency of strengthening its regulatory independence, implementing effective mechanisms, reducing excessive reliance on discretionary ministerial/regulatory powers, fostering technical expertise, and safeguarding decommissioning funds cannot be overstated. Therefore, utilising international excellent practices and the lessons gained from the comparator countries with a view to contextualising them within Nigeria's social and economic interactions besides legal certainties would enhance Nigeria's decommissioning governance, address environmental risks and improve socio-economic sustainability for both the host communities and the nation generally.

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