



## MARGINAL FIELDS REGIME IN NIGERIA

### INTRODUCTION

The Federal Government of Nigeria has in recent times been committed to the exploration of idle oilfields in the country to generate the much needed internally generated revenue (IGR) to finance the government's ever increasing expenditures and to promote indigenous participation in the oil and gas sector. This venture led to the announcement and invitation for indigenous companies to submit proposals for the exploration of marginal fields in consonance with approved guidelines of the Department of Petroleum Resources.

A marginal field is an oil field that may not produce enough net income to make it worth developing and which has not been exploited at a particular period of time. These are fields where oil has been discovered, but not commercially viable to the owners. They are usually discovered by International Oil Companies (IOCs) in the course of exploring larger acreages and which have not been developed for more than 10 years or such field as the President may identify. With the agreement of the IOCs, the DPR carves-out a piece of land surrounding the discovery and this becomes a Marginal field.

The Marginal Fields programme was introduced to encourage indigenous participation in the oil industry, to maximize government's take on undeveloped acreages, to reduce the rates of abandonment of depleting fields that have become unproductive, create new and diverse investments, and boost reserves. Although, marginal fields are awarded to indigenous companies but often involve farm-in and joint venturing agreement with international oil companies. This involves the provision of technical and

financial services to the indigenous oil company who must be a designated operator of the field.

### LEGAL FRAMEWORK

The ownership and control of all minerals, mineral oil and natural gas in, under or upon any land in Nigeria, its territorial waters and exclusive economic zone is vested in the Federal Government based on the provision of section 44(3) of the 1999 Constitution of the Federal Republic of Nigeria. The Federal Government is mandated to manage such minerals in a manner as may be prescribed by the National Assembly. The Ministry of Petroleum Resources, through the Department of Petroleum Resources (DPR), is empowered to administer licensing of oil blocks in the country.

The Petroleum Act of 1969 is the primary legislation governing petroleum activities in Nigeria. It provides comprehensive provisions for exploration, production and transportation activities in the sector. The Act, like the constitution, vests ownership of petroleum resources on the Federal Government of Nigeria. There is a myriad of other laws such as the Petroleum Amendment Act 1996 and subsidiary pieces of inter-related legislations that deal with specific operations of the industry. Section 2 of the Act confers on the Minister for Petroleum Resources the power to grant licenses and provides general criteria for the assignment of licenses. DPR issues guidelines for the conduct of licensing rounds, pre-qualification requirements, documentation to be provided, application fees payable, deadline for submission of bid documents and criteria for the evaluation of technical and commercial criteria (including weights).

<https://nairametrics.com/2020/06/03/oil-gas-dpr-announces-2020-marginal-field-licensing-round/#:~:text=Marginal%20fields%20are%20known%20oil,this%20becomes%20a%20Marginal%20field.>

The Petroleum Act allows for the provision of three types of licenses that permit a company to operate in the upstream sector of the oil and gas industry. An Oil Exploration License (OEL), Oil Prospecting License (OPL), and Oil Mining Lease (OML). In practice, only the OPL and OML are in use, all OELs were converted to OPLs in the 1970s.

Marginal Fields in Nigeria are provided for under the Petroleum Amendment Act 1996, particularly paragraph 16A of the amended Petroleum Act reads as follows:

*16A. (1) The holder of an oil mining lease may, with the consent of and on such terms and conditions as may be approved by the President, farm-out any marginal field which lies within the leased area.*

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

*(3) The President shall not give his consent to a farm out or cause the farm – out of a marginal field unless he is satisfied –*

*(a) that it is in the public interest so to do, and in addition, in the case of a non producing field, that the marginal field has been left unattended for an unreasonable time, not being less than 10 years; and*

*(b) that the parties to the farm-out are in all respect acceptable to the Federal Government.*

*(4) For the purpose of this paragraph –*

*"Farm-out" means an agreement between the holder of an oil mining lease and a third party which permits the third party to explore, prospect, win, work and carry away any petroleum encountered in a specified area during the validity of the leases;*

*"Marginal field means such field as the President may, from time to time, identify as a marginal field."*

## **OPERATIONS**

Periodically, the DPR on the directions of the Minister of Petroleum allocates marginal field to different indigenous companies after an approved process have been carried out. The overall programme will begin with formal announcements of the fields available for

round, as well as the guidelines on the process, stages and application requirements which will facilitate the process from start to finish. The fields to be allocated will be announced and companies would be invited to submit proposals in tandem with the guidelines provided by the DPR. These indigenous companies must be duly registered to carry out petroleum exploration and production operations in Nigeria.

A marginal field bidding round will subsequently take place to consider the companies the marginal fields will be allotted to. A successful bidder in the marginal field bidding round will conduct a farm-out agreement with an OML holder, which allocates responsibilities and liabilities as between the area holders, as well as the royalty payable and terms for accessing infrastructure. A farm-out agreement means an agreement between the holder of an oil mining lease and a third party that permits the third party to explore, prospect, win, work and carry away any petroleum encountered in a specified area during the validity of the leases. In this scenario, the OML holder is only entitled to negotiation as the relationship between the two parties is likened to that of parties of a sublease, the OML holder being the "farmor" and the marginal field holder, the "farmee".

On 1<sup>st</sup> June 2020, the DPR on behalf of the Federal Government announced that a total of 57 fields located on land, swamp and shallow offshore terrains will be offered. The exercise would be conducted electronically and would include expression of interest/registration; pre-qualification, technical and commercial bid submission, and bid evaluation. The first bid round that was formally organized by the FGN began in 2001 and was concluded in 2003. At the end of the bid round, 24 licenses were awarded to 31 indigenous companies. Another bid round was proposed in 2013 with a lot of preparation and guidelines released. Unfortunately, it never held. The Federal Government primary aim is to promote marginal field operations to grow production capacity and to increase the country's oil and gas reserves. However only effective due diligence and increased transparency in the award of marginal fields and farm-out agreements that there can be an achievement of the objective of increasing production.

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