FARMOUT OF MARGINAL OIL FIELDS
THE 2020 MARGINAL FIELDS BID ROUND

THE MARGINAL FIELDS PROCESS

THE GUIDELINES

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CONCLUSION
The legal framework for the award of Marginal Field in Nigeria was established by the enactment of the Petroleum (Amendment) Act, No. 23, of 1996. This provided the platform for the award of the first Marginal Fields in 1999 and by 2010, thirty Marginal Fields had been awarded to Nigerians with the aim of increasing crude oil reserves and production, promoting indigenous participation and developing local capacity in the upstream sector. Tellingly, out of these 30 Marginal Fields only 9 fields are producing (contributing to about 6.71% of total annual oil production) while the remaining 21 are either at various stages of development or still grappling with one challenge or the other.

In the quest to boost the Nigerian economy through the Oil and Gas Sector, the Department of Petroleum Resources (DPR), which is the technical arm of the Ministry of Petroleum Resources, has formulated and recently issued Guidelines for Farmout and Operations of Marginal Fields 2020. The guidelines provide a structure that majorly aims at the resuscitation of Marginal Oil Fields that have been abandoned, unattended, and unappraised for a considerable number of years.
Fields that are categorized as marginal fields are to be periodically determined by DPR based on the list of undeveloped fields presented to it by Operating Companies. Marginal fields are therefore the fields with oil and gas reserves that have remained unproduced for more than 10 years due to marginal economics under prevailing fiscal and market terms. These fields typically require new technology for oil and gas production and are usually fields with high gas and low oil reserves. Such fields may have been abandoned for more than 3 years due to economic or operational reasons and need to be farmed out in order to maximize their efficiency.

THE MARGINAL FIELDS PROCESS

The objectives of the Marginal Field process are to enlarge the production of oil and gas in Nigeria by encouraging participation and investments of indigenous operators. It also aims at increasing the oil and gas reserves base, providing employment opportunities to Nigerians, and promoting efficiency in the sector.
The Guidelines provide comprehensive details of the process of allocating Marginal Fields to interested companies. The DPR is to make a public announcement of available Marginal Fields for which interested companies may bid. The selection committee, which include three (3) representatives from DPR (including chairman), and one (1) each from the NNPC and the Lease Operator, is set up to receive, scrutinize and evaluate all applications to ensure that companies that would be eventually selected are technically and commercially competent to realize the objectives of the farm-out arrangement.
The process commences with the public announcement of available fields and receiving applications from interested companies. The applications are to be supported by credible evidence to prove that interested companies can maximize the exploration and production of oil and gas in the Marginal Fields if granted to them. In this regard, the selection committee is interested in ascertaining, evidence of the company’s technical and managerial capability, Nigerian content, financial strength, evidence of payment of statutory application fee and bidding fees. Companies whose promoters are indebted to the Government or currently have assets that are not being operated in a business-like manner will not be pre-qualified.

After the verification, prequalified companies are contacted and required to submit their technical and commercial proposals for the purpose of determining the details of the companies’ proposed work programmes on the field and also the companies’ field development plans in order to arrive at an informed decision as to the viability of the applications. Following the completion of the pre-qualification and selection processes, a recommendation shall be made to the Honourable Minister of Petroleum Resources and subsequently to the President pursuant to the Petroleum (Amendment) Act, 1996 for approval. Successful applicants shall thereafter be duly notified of the allocation by the DPR.
Upon the approval for allocation of Marginal Fields to successful companies, relevant terms and conditions would be negotiated by the companies and Leaseholders for the purpose of executing a farm-out agreement. Where two or more companies have been jointly allocated a Marginal Field, the Guidelines require that they execute a Joint Operating Agreement (JOA) before executing a farm-out agreement with the Leaseholder. Upon the grant of an award of a Marginal Field, signature bonus shall be paid within 90 days of award and where there is a default in payment, a 30 days revocation notice shall be issued to the company and if the default persists, the allocation shall be revoked without further notice. It is expected that the Marginal Field Operator shall comply with the stipulations in the Guidelines, obtain the approval of Minister of Petroleum Resources for a change of Operator and maintain its interest in the farm-out for a prescribed duration. In the event of bankruptcy and insolvency of the Farmee, the field shall return to the Marginal Field pool of DPR and the said bankruptcy and insolvency shall not affect the obligation of the Farmee which has accrued before the return of the field. It is the duty of DPR to supervise and monitor operations in respect of the Farm-Out areas and to terminate the Farm-Out agreement if there is no verifiable evidence of efforts made to progress development on the field(s) according to the approved plan within 60 months (5 years) of consent to the farm-out agreement. The Farmee also reserves the right to initiate the termination of the agreement provided that the Farmee gives at least a 90-day notice to the DPR and makes payment of necessary fees.
On the other hand, the agreement may also be renewed if at the end of the 60 months of consent to the farm-out agreement, the Farmee shows, to the satisfaction of DPR, verifiable evidence of efforts made to progress development on the field(s) according to the approved plan.

It is provided in the Guidelines that the Farmee shall have all the rights of an OML holder in respect of the Farm-out Area containing the field(s) once the farm-out is concluded. In addition, all the rights, interests and duties of the previous Leaseholder shall be transferred to the new Leaseholder. The Farmee shall have the right to deal directly with DPR as the Leaseholder. All rights, interests, obligations and liabilities of the Farmor in respect of the Farm-out Area containing the field(s) shall automatically transfer to the Farmee and the Farmor shall be relieved of the same as from the date of the execution of the Farm-out Agreement.

The Guidelines stipulate that the Field(s) shall revert to the Marginal Field Pool of the DPR 24 calendar months after the end of production operation on the Field provided that this does not relieve the Farmee of any obligations and liabilities in respect of such Field(s) such as abandonment, decommissioning, environmental restoration and all other obligations in accordance with the law.

As expected, it is a mandatory requirement under the Guidelines that any Field development plan proposed for the development and production of oil or its equivalents from a Marginal Field shall include provisions that will provide for the safe conduct of all operations.
Similarly, the Guidelines provide that prior to the commencement of operation in the Farm-out Area of a Marginal Field, the Farmee is required to conduct an Environmental Impact Assessment (EIA) in order to ascertain the impact of their proposed operation to the environment. The Guidelines further place on the Farmee, the obligation to utilize all gas produced from the farm out area.
Some of the observed challenges confronting Marginal Field operators relate to inability to attract capital to fund field development. Sometimes imposition of partnership by the government to some awarded fields lead to misalignment of interests and disputes. Operators have also experienced delays by the Government and the Leaseholders in signing the relevant award and farm out documents as well as delays in granting consent to the farm out area to enable the Farmees source for funds and commence development. Insecurity and restiveness in the Niger Delta area has also been a challenge coupled with lack of technical expertise to explore the Fields and inadequate due diligence on foreign technical partners.
Overall, the provisions in the Guidelines will seem to revive the Marginal Fields award process and facilitate aggressive exploration and production of oil and gas in Nigeria. As at 1st of June 2020, 57 Marginal Fields, located on land, swamp, shallow offshore terrains have been offered by the Federal Government for competitive bid round.

It is necessary for the government to consider the challenges encountered by the Marginal Field operators in order to apply the lessons learnt in the current bid rounds. Given that funding is the main challenge faced by the Marginal Field operators, it is expedient for the government to come up with innovative funding arrangements either by way of sovereign guarantees in form of security in order to enhance the ability of the awardees to access project financing funds for their field development plans. Government can also come up with funding innovations such as the type dedicated to vessel acquisition known as Cabotage Vessel Finance Fund established under the Coastal and Inland Shipping (Cabotage) Act, 2003.
Other incentives dedicated to Marginal Field development such as tax reliefs and other concessions can also be introduced to encourage local participation in the upstream sector.

The government should also ensure transparency in the bid and award process so that only technically competent and financially viable Companies with proven track record in the exploration and production industry emerge as successful awardees. DPR should not compromise the procedures contained in the Guidelines and there should not be political considerations in determining who emerges successful. The successful awardees should on their part undertake thorough due diligence before entering into any foreign technical partnership arrangement and the terms of contract for such an arrangement should be vetted by legal and technical experts.

Despite the challenges faced by the Marginal Field operators in Nigeria, Marginal Fields, which are estimated to host about 2.3 billion barrels crude oil reserve in over 183 fields are believed to have strong prospects of stimulating economic activities in the upstream sector in Nigeria if properly harnessed and if the right incentives are applied towards their development.