

# National Principles for Responsible Petroleum Industry Divestment



The Federal Government of Nigeria (FGN) and the oil industry should agree to a new set of principles for responsible oil industry divestment, called the *National Principles for Responsible Petroleum Industry Divestment*. All oil and gas companies operating in Nigeria should be requested/required to sign and abide by these principles. The National Assembly should adopt legislation mandating the agreed Principles in law. *The National Principles for Responsible Petroleum Industry Divestment* should form the basis for responsible extractive industry divestment globally, and should form the basis of a multilateral agreement/treaty among all extractive industry companies and governments as a new global norm. All stakeholders should discuss and agree to adopt the National Principles at the proposed Abuja 2024 Conference (Recommendation 16 below).

The proposed National Principles for Responsible Petroleum Industry Divestment are as follows:

### **Informed, transparent and inclusive decision-making on divestment proposals**

1. All oil industry divestment applications shall be publicly noticed at least 90 days prior to submission to the Federal Government of Nigeria (FGN). At a minimum, public notice shall be posted in two national daily newspapers and clearly communicated to all communities within the Oil Mining License (OML) area. Host Communities, Local Governments, and State Governments must be authentically engaged and consulted regarding the sale by both the seller and proposed buyer, and written confirmation of such engagement by these local entities must be included with the seller's divestment application, consistent with standards of Free Prior and Informed Consent (FPIC). Confirmation should include written consent from the leadership structures across the OML – including the Paramount Rulers, Councils of Chiefs, Women's groups, and Youth groups – to confirm that all components of civil society have been consulted.
2. The FGN shall confirm that the seller has informed the proposed buyer of all pollution events and other environmental liabilities within the OML area to be divested, including pending litigation, as part of the checklist for statutory consent to be granted for divestment. Such disclosures shall be published as part of the 90-day pre-divestment notice, and also filed with the Attorney General of the Federation, with penalties stipulated for breaches.
3. Prior to a divestment application being considered by the FGN, proposed buyers shall, to the full satisfaction of an independent auditing body, demonstrate the following: a) their technical and financial capacity to safely and effectively operate the assets to Best International Standards (as required by Nigerian law); b) that they have a robust Integrity Management program, spill prevention and response capability, and a corporate commitment to remaining engaged with Host Communities, Local Governments, and State Governments throughout the expected lifetime of their ownership and operation of the acquired facilities; and c) to transparently disclose to the general public their company history, financing, staff and directors.
4. All applications for divestment shall include a full Environmental Evaluation Report (EER), as required pre-divestment by Section 2.1 (ii) of EGASPIN; an Environmental, Social, and Health Impact Assessment (ESHIA); and an Environmental and Social Due Diligence Study (ESDD). The EER, ESHIA, and ESDD shall be submitted to all affected Host Communities, Local Governments, and relevant State Governments at least 90 days prior to any decision being made by the FGN. The ESHIA should include a schedule for regular monitoring and evaluation – ideally by independent NGOs, community groups, or an environmental consulting firm – to monitor the impacts of operations.

5. All applications for divestment shall include a comprehensive Asset Integrity Review, conducted by a credible third-party engineering firm, of the condition, operational integrity, maintenance, previous failures, etc., of all oil and gas assets to be divested. Before sale approval, all integrity or safety deficiencies must be disclosed and remedied to the satisfaction of Host Communities, Local Governments, State Governments, and the FGN. This shall be funded by the seller, and the buyer shall be part of the process to ensure they are satisfied with the review process and report. As part of its due diligence, the FGN shall require vendor sit honestus (“seller-be-honest”), in which the seller fully discloses all asset integrity issues prior to divestment. This is consistent with requirements of the PIA, under which the NUPRC is required to publish online detailed information on divestments.
6. Prior to FGN consideration of a divestment application, all environmental damage due to the seller’s prior operations shall be cleaned up and fully remediated (as required by Nigerian law) to the satisfaction of Host Communities, Local Governments, State Governments, and the FGN, and an Environmental Bond should be posted by the seller to cover any damages unknown/undisclosed at the time of sale.
7. Prior to FGN consideration of a divestment application, all financial liabilities of the seller – including payments due to contractors, Host Community Development Trusts, the Decommissioning and Abandonment Fund, and liabilities related to past environmental damage – shall be fully resolved to the satisfaction of the Host Communities, Local Governments, State Governments, and the FGN.
8. Prior to FGN consideration of a divestment application, the buyer shall demonstrate it has been certified by the Nigerian Content Development and Management Board (NCDMB) and is compliant with Community Content Guidelines (as distinct from Nigerian Content requirements). The buyer shall also outline their plans for ensuring local content.
9. If assets to be divested continue gas flaring, the divestment application shall contain a plan to end gas flaring by the 2030 legal deadline, demonstrate how they will fund this plan, and include gas flare commercialization opportunities.
10. All divestment applications shall outline a plan to properly Decommission and Abandon infrastructure (as required by the PIA) and demonstrate that the D&A plan is fully funded.
11. Prior to FGN consideration of a divestment application, the seller and proposed buyer shall submit an accounting of all carbon emissions that have been, or are expected to be, released from the facilities to be divested, and a plan to mitigate or offset all emissions.

12. Host Communities must be afforded the opportunity to receive an interest (e.g. equity interest, profit share, etc.) in any new joint venture agreement following divestment/acquisition. Such an agreement should involve the Host Communities in decision-making without requiring any financial investment by the Communities and must indemnify the Communities from liability. Community profit shares could be contributed to Host Community Development Trusts, to support and enhance projects outlined in community development plans under the PIA.
13. The FGN shall methodically consider all the above information presented by the seller, proposed buyer, Host Communities, Local Governments, State Governments, and NGOs in its decision regarding divestment applications, and post all such information and the rationale for its final decision on the NUPRC/NMDPRA/MoPR websites. This should be aligned with the Bureau of Public Procurement Act 2007.

### **Effective and transparent monitoring of divestments**

14. All previous divestments since the year 2000 shall be independently reviewed by an independent auditing firm and brought into compliance with the National Principles within two years, with compliance progress reports published and communicated to Host Communities, Local Governments, and State Governments every six months within the two-year review period.
15. Two years post-divestment, the buyer/new owner will be required to convene a follow-up, multi-stakeholder engagement process, giving the Host Communities, Local Governments, State Governments, NGOs, and the FGN a chance to review and comment on the new owner's conduct to date, and to propose any remedial actions they feel appropriate. This will require funding for independent monitoring, evaluation, and consultation going forwards.
16. The FGN shall provide to the Public, National Assembly, and State Governments an annual summary of all divestments proposed, approved, or declined.
17. The FGN shall, along with its approval of a divestment application, publish a summary compliance checklist documenting that all elements of the National Principles are fulfilled, including the responsibilities of federal agencies.