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**The Nigerian Gas Flare  
Commercialisation  
Programme (NGFCP)  
2022- A Key Enabler  
Of Nigeria's Decade  
Of Gas Policy**

# The Nigerian Gas Flare Commercialisation Programme (NGFCP) 2022- A Key Enabler Of Nigeria's Decade Of Gas Policy



## INTRODUCTION

Gas flaring occurs when upstream oil field operators opt to burn the associated gas that accompanies oil production, or simply release it into the atmosphere, rather than build equipment and pipelines to capture it.<sup>1</sup> This is called 'non-emergency flaring and venting'. It results in the release of substantial volumes of potent greenhouse gases (GHGs) including methane, black soot, and nitrous oxide to the atmosphere, and this causes even worse environmental damage than flaring. With natural gas prices at historic highs, the International Energy Agency (IEA) has stated that gas flaring in addition to its negative impacts on climate change and human health, is an extraordinary waste of money. It stated that bringing this gas to the market could relieve very

tight gas markets and, in many cases, could do so faster and cheaper than investing in new gas supply.<sup>2</sup> According to the IEA's 2023 report,<sup>3</sup> around 140 bcm of natural gas is flared globally each year. In the Net Zero Emissions by 2050 (NZE) Scenario, all non-emergency flaring is eliminated globally by 2030, resulting in a 95% reduction in flared volumes and avoiding 365 Mt CO<sub>2</sub>-eq.

Gas flaring has been a long-standing concern within Nigeria's energy sector. In the first half of 2023, oil and gas companies in the country flared 138.7 million metric standard cubic feet of gas. This led to the emission of 7.4 million tonnes of carbon dioxide (CO<sub>2</sub>), valued at a rate of US\$485.3 million. Nigeria ranks among the world's top offenders in terms of gas-flaring volumes, with an estimated 80 billion standard cubic meters of gas, valued at approximately N9 trillion flared as part of its oil production operations between 2012 and 2022.<sup>4</sup> This profligate practice not only results in significant financial



<sup>1</sup><https://www.iea.org/energy-system/fossil-fuels/gas-flaring> accessed 20th February 2024.

<sup>2</sup>Ibid.

<sup>3</sup><https://www.iea.org/reports/tracking-clean-energy-progress-2023> accessed 22nd February 2024.

<sup>4</sup><https://www.majorwavesenergyreport.com/gas-flaring-soars/> accessed 22nd February 2024.

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losses for the nation but also contributes substantially to carbon emissions and release of various other pollutants into the atmosphere, thus, negatively impacting host communities.

## Nigeria's Approach to Gas Flaring

To resolve this unacceptable oil field practice of gas flaring and to end the wastage of natural gas, a premium economic resource, the Federal Government of Nigeria (FGN) applied the “carrot and stick” approach to motivate exploration and production companies to end gas flaring. Some of the laws which penalised flaring were the Associated Gas Re-injection Act of 1979 (“AGRA”), its subsidiary legislation, the Associated Gas Re-injection (Continued Flaring of Gas) Regulations of 1985, and its amendments in 1990 and 1998; the Associated Gas Framework Agreement (AGFA) 1991, which codified the Petroleum Profits Tax Act (PPTA)<sup>5</sup> and the National Domestic Gas Supply and Pricing Policy 2008.<sup>6</sup> However, these laws did not substantially affect the posture of industry players regarding gas flaring and did little to end the menace.

## Nigeria's New Approach to Gas Flaring

To birth the Nigerian flare-free era, the Federal Executive Council, in 2016, approved the Nigerian Gas Flare Commercialization Programme (NGFCP) to eliminate gas flaring through technically and commercially sustainable gas utilization projects developed by competent third-party investors invited to participate in a competitive and transparent bid process. In 2018, the former President of the Federal Republic of Nigeria, in his capacity as the Minister of Petroleum Resources and relying on the Petroleum Act<sup>7</sup> and the AGRA,<sup>8</sup> issued the Flare Gas (Prevention of Waste and Pollution) Regulations of 2018 (“the 2018 Regulations”) to midwife the NGFCP.

However, due to events like COVID-19, and the enactment of the Petroleum Industry Act 2021 (PIA), flare situations changed, and there emerged new operational realities which necessitated the expediency for an optimised restructure of the programme. The Nigeria Upstream Petroleum Regulatory Commission (the Commission) restructured the NGFCP in August 2022 with the renewed mandate to achieve the core objectives of flare gas monetisation in Nigeria within an accelerated timeline, to create end-to-end value for investors and the FGN, and to drive the attainment of the FGN's 'Decade of Gas' policy.

<sup>5</sup>PPTA Cap P13 LFN 2004, Sections 11 & 12.

<sup>6</sup>NGSPP 2008, para E (ii). <https://archive.gazettes.africa/archive/ng/2008/ng-government-gazette-dated-2008-02-19-no-10.pdf> accessed on 24th February 2024.

<sup>7</sup>PA 1969, section 9(1).

<sup>8</sup>Ibid n. 5, section 5.

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## The fundamentals of the NGFCP 2022 include to:

- demonstrate Nigeria's commitment to the ratified Paris Climate Change Agreement and the Global Gas Flaring Reduction (GGFR) Partnership principles for global flare-out by 2030;
- achieve Nigeria's aspiration to attain net-zero routine flaring within the decade of gas;
- monetise flare gas resources for optimal government revenue;
- deepen in-country value addition through indigenous participation in line with the PIA;
- attract Foreign Direct Investments (FDIs);
- and create gas-based industrialisation for enhanced socio-economic benefits in and around host communities in the Niger Delta.

## Overview of the Legal and Regulatory Framework for the NGFCP

- **Petroleum Act 1969:** The Act<sup>9</sup> empowers the FGN to take associated gas at the flare free of cost and without payment of royalty. This right, which is more than 5 decades old, applies to any

natural gas discovered under petroleum leases and licenses, including marginal fields issued under the Petroleum Act. The Minister pursuant to Section 9(1) of the Act, issued the Flare Gas (Prevention of Waste & Pollution) Regulations 2018.

- **Flare Gas (Prevention of Waste & Pollution) Regulations 2018:** Under these Regulations, the Minister may through a 'Permit to Access Flare Gas' authorise a Qualified Applicant to take flare gas on an exclusive basis on behalf of the FGN at any flare site specified in the Permit to utilise the flare gas or otherwise dispose of it in any manner authorised by the FGN.<sup>10</sup> It is however useful to note that the Permit may only be granted to a Nigerian company that is not a holder of an Oil Mining Lease (OML) or an allottee of a Marginal Field (MF)<sup>11</sup> and such permit is not transferable except with the prior written approval of the Director of the Department of Petroleum Resources (DPR).<sup>12</sup> A Producer may only utilise flare gas for commercialisation from its OML

<sup>9</sup>PA, 1969, Cap P10 LFN 2004, section 1, para 35(b)(i) of the 1st sch.

<sup>10</sup>Flare Gas (Prevention of Waste & Pollution) Regulations 2018, section 8(1).

<sup>11</sup>Ibid, section 8(3).

<sup>12</sup>Ibid, section 10.

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or MF pursuant to *Section 3(2)* of this Regulation or in relation to Producer Approved Flare Out Project,<sup>13</sup> provided however, that such utilization does not reduce or affect any flare gas volume that is subject to a bid, or that has been assigned to a Permit Holder (PH) by the FGN.<sup>14</sup> The Regulations prohibit routine flaring or venting of gas from any facility by a PH, and from any greenfield project by a Producer,<sup>15</sup> and copiously provide for graduated penalties for routine and non-routine flaring, unless such flaring was beyond the control of the producer.<sup>16</sup> The Regulations further provide that the DPR may revoke the permit to access flare gas where the PH fails to comply with the terms and conditions of the permit and, may also revoke the OML or MF of the Producer who also fails to comply with the Regulations.

- **The PIA 2021:** The PIA empowers the Commission to take free of charge natural gas that is destined for flaring at the flare stack.<sup>17</sup> The Commission grants a Permit to Access Flare Gas to a

Flare Gas Buyer on an exclusive basis from one or more flare sites as designated by the permit. The PH is not liable to pay royalties to the FGN and shall either utilize the gas or dispose of it in the manner authorized by the FGN. Once the PH has paid the mandatory fees to the Commission for the grant of Permit to Access Flare Gas, Data Access Permit, Data Prying, Data Leasing (as may be from time to time required) and handling and guarantee fee to be paid to the Producer as prescribed in the respective Connection & Deliver-or-Pay Agreements, the Commission shall mandate the Producer to provide the said Flare Gas Data in respect of flare site specified under the Data Access Permit to the PH within 30 days of PH's request. The Data Access Permit is valid until the Permit to Access Flare Gas expires.<sup>18</sup> The Commission is empowered to enforce regulations & guidelines issued by the DPR.

In the Commission's 2022 auction round, 49 flare sites were offered to 42 technically and financially viable bidders, out of the 300

<sup>13</sup>Ibid, section 14.

<sup>14</sup>Ibid, section 3(3).

<sup>15</sup>Ibid, section 12(2) &(3).

<sup>16</sup>Ibid, section 13(1) & (2).

<sup>17</sup>PIA 2021, section 105(2).

<sup>18</sup>Gas Flaring & Venting (Prevention of Waste and Pollution) Regulations 2022.

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companies that indicated interest. 38 were offered as stand-alone flare site development while 4 are to be developed in clusters.<sup>19</sup> 30% of the existing flares in Nigeria, accounting for 250 million standard cubic feet of natural gas was mopped up in this bid round.<sup>20</sup>

### CONCLUSION

The commercialisation approach has been considered from legal, technical, economic, commercial, and developmental standpoints as a unique and historic opportunity to attract major investment in economically viable gas flare capture projects whilst permanently addressing the environmental problem in Nigeria. Notably, the NGFCP 2022 seeks small-scale modular technologies with unique features such as ease of deployment, scalability, mobility, and off-the-shelf availability, including mini/mid-scale LNG, modular LPG facility, modular methanol/ammonia plant, gas-to-liquids facility, virtual pipelines solutions. It is important that investors locally and internationally take advantage of the NGFCP as an opportunity to contribute to ameliorating global climate challenges.

<sup>19</sup><https://leadership.ng/42-bidders-win-nuprc-gas-flare-commercialisation-licences-2/>, accessed 24th February 2024.

<sup>20</sup><https://africaoilgasreport.com/2023/01/gas-monetization/nuprc-approves-less-than-half-of-applicants-for-gas-flare-programme/>, accessed 24th February 2024.



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Do you need to get in touch with us, to know more how we can help you and your business?  
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