

# TOWARDS A COMPREHENSIVE LEGAL FRAMEWORK FOR THE DECOMMISSIONING OF OFFSHORE OIL AND GAS FACILITIES IN NIGERIA – LESSONS FROM BRENT SPAR CASE

## ANNOTATED BIBLIOGRAPHY

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This annotated bibliography specifies the sources of information for my LL.M. research at the University of Calgary. My research focuses on the need for a comprehensive legal framework for the sustainable decommissioning of offshore oil and gas facilities in Nigeria.

The issue of offshore decommissioning did not attract much attention until the early 90s when the world began to witness the activities of major oil corporations in disposing their offshore facilities in environmentally unsound manners. Its defining moment came with the *Brent Spar case* when Shell Corporation UK, sought and indeed obtained the approval of the UK government to dump the *Brent Spar*-a floating buoy, in the deep atlantic waters at North Fenni Ridge, off the Northwest of Scotland. This event unveiled an emotive public clash among different stakeholders-including host governments, oil companies, environmental pressure groups, the fishing industry, shipping interests, and the general public. Thus, it led to an era of legislative awakening on the need for international regulatory and legal frameworks on decommissioning, leading to evolution of more laws on the subject and the strengthening of already existing ones.

At the national levels, countries like the United Kingdom, United States, and Norway have also come up with comprehensive legal frameworks which regulate the disposal of offshore facilities. Interestingly however, Nigeria, despite its strength as one of the biggest oil producing countries of the world has not done much in this regard. As of today, there is no law in Nigeria on the sustainable disposal of disused oil exploration facilities. In the absence of such laws, Nigeria may be faced with the huge cost of clean ups in the event of a 'Brent Spar' happening within its territorial waters. It is doubted that Nigeria currently has the capacity, technology and resources to cope with the exorbitant cost of such clean ups. Knowing that the dumping of decommissioned offshore oil and gas facilities poses a huge threat to the marine systems and to the marine ecosystems, Nigeria cannot afford to wait until when this happens before it lays down the requisite legal framework which provides for the sustainable disposal of oil and gas facilities.

This thesis thus examines how Nigeria can beforehand; lay down a comprehensive legal framework on the safe disposal of offshore facilities. It examines the legal framework needed in Nigeria to ensure that multinational oil companies operating in Nigeria adopt best practices in the disposal of their disused oil exploration facilities. It looks at the lessons that can be learnt from other resource based countries like the UK, in fashioning out a legal framework on the sustainable disposal of such facilities.

This annotated bibliography is classified into three sections. Each section (except section three) includes a part on monographs, and another, on the relevant articles.

SECTION ONE deals with general works on decommissioning of offshore oil and gas facilities as well as the impacts of unsustainable decommissioning on the environment, most especially the marine environment. These works provide the necessary background information and lay the conceptual foundation for my thesis.

SECTION TWO is devoted to works on offshore decommissioning in United Kingdom and Nigeria. It contains works on offshore decommissioning laws in United Kingdom and the institutional framework existing in United Kingdom on offshore decommissioning. These materials will form the basis for my comparative analysis of the offshore decommissioning regime in United Kingdom and Nigeria.

SECTION THREE contains useful links to other web based sources, containing relevant information on the Offshore decommissioning regime in United Kingdom and Nigeria.

## SECTION ONE

# GENERAL TEXTS ON DECOMMISSIONING OF OFFSHORE OIL AND GAS FACILITIES

## MONOGRAPHS

Ayoade, Morakinyo. *Disused Offshore Installations and Pipelines: Towards Sustainable Decommissioning* (Hague: Kluwer Law International, 2002).

This book examines the existing synergies between decommissioning and sustainable development. It elaborates on how to incorporate the concept of sustainable development into the international and national law of decommissioning. It also shows how the celebrated *Brent Spar* crisis has triggered a creative search for new methods of decommissioning. This book offers a rich exposition of what the author calls a *sustainable decommissioning theory*. It provides sufficient insights on why and how countries can incorporate sustainable development into their national laws for decommissioning.

Corcoran, Mike. *The Abandonment of Offshore Oil and Fields* (Ledbury, England: Oilfield, 1997).

This text presents an overview of regulatory frameworks on decommissioning of offshore oil and gas facilities within an historical context. In this way, it gives the reader the perspective in which to interpret the intent and future development of such regulations for offshore areas. This book is helpful in understanding the historical context of offshore decommissioning of oil and gas facilities.

Gao, Zhiguo. *Environmental Regulation of Oil and Gas* (London: Kluwer Law International, 1998).

This book serves as a compendium of the international, regional and national legal regimes on the environmental aspects of petroleum exploitation and management. It generally highlights the environmental impacts of offshore activities including the removal of offshore platforms in environmentally unsound manners. In contrast, a recent study by Patin cited below shows some measures which, when taken, would minimize the environmental impacts of petroleum exploitation and production.

Gorman, D. & Neilson June, *Decommissioning Offshore Structures* (New York: Springer, 1997).

This book provides a practical strategy for removing and disposing offshore facilities which best meets the demands of all of environmental considerations. It details the various options for offshore decommissioning. This book provides the scientific basis for understanding the environmental side effects of unsustainable decommissioning.

Owen, Paula. *Decommissioning the Brent Spar* (United Kingdom: Taylor & Francis, 1999).

This book chronicles the events of the Greenpeace demonstration against Shell and their plans to dispose redundant oil storage in a Norwegian fjord. It offers a very readable account of the events of the summer of 1995, and examines the many issues with dumping of offshore installations. This book practically demonstrates the roles of environmental activists in ensuring sustainable decommissioning. It is a very useful source for the analyses of the Brent Spar legacy and the legislative activities that followed.

Patin Stanislav, *Environmental impact of the offshore oil and gas industry* (New York: EcoMonitor Publishing, 1999).

This book provides a comprehensive assessment of how oil and gas exploration and production affect marine ecosystem and what measures should be taken to minimize its impacts. Of much relevance is chapter three which examines the environmental effects of offshore decommissioning on the marine ecosystems and organisms and measures to be taken to minimize its impacts. It assists with useful information on the environmental consequences of deep-sea disposal of offshore facilities.

## ARTICLES

Brown, E. "Decommissioning of Offshore Structures: Legal Obligations under International and Municipal Law" (1982) 1 O.P.P.R 23-25.

This article examines states' legal obligations under international law and the need under municipal laws for regulations on sustainable decommissioning of offshore structures.

Ekins, Paul *et al.* "Decommissioning of Offshore oil and gas facilities: A comparative assessment of different scenarios" (2006) 79 J.E.M 420-438.

In this article, a comparative analysis was made of the environmental outcomes of the different scenarios of offshore

decommissioning. The paper concludes that it is not clear that the removal of the topsides and jackets of large steel structures to shore, as currently required by regulations, is environmentally justified. It provides a rich discussion of the sustainable options that can be followed in decommissioning offshore oil and gas facilities.

George, C. "Removal of Offshore Platforms and the Development of International Standards" (2002) 13 *Marine Policy* 249-265.

This article describes the draft Guidelines and Standards on removal of offshore platforms adopted by the Maritime Safety Committee of IMO. It gives a cursory look at international attempts in regulating offshore decommissioning. This material will serve as useful tool in my doctrinal analysis of the international legal frameworks on offshore decommissioning.

Hamzah, B. "International Rules on Decommissioning of Offshore Installations: Some Observations" (2003) 27 *Marine Policy* 339-348.

This paper, which is concerned mainly with international law and practice on the decommissioning of offshore installations, examines the various global and regional instruments, which attempt to regulate decommissioning. In considering the way forward, particularly for Third World countries, it is concluded that there is a need for oil-producing countries to enact comprehensive national legislation on this subject.

Osmundsen Petter & Ragnar Tveteras, "Decommissioning of Petroleum Installations—Major Policy Issues" (2003) 31 *Energy policy* 1579-1588.

This article provides a survey of international economic and regulatory issues pertaining to disposal of petroleum installations. It analyses the unanimous agreement reached by OSPAR countries on disposal of petroleum installations and also considers the implications of disposal decisions for the fishing industry - a central stakeholder. The OSPAR agreement is the foundation on which the United Kingdom's regulatory framework is based.

Richard, Bentham. "The North Sea: Problems of De-commissioning" (2002) 11 *Marine Policy* 313-315.

This article takes a general view of matters relating to offshore decommissioning. The development of oil and gas in the North Sea; what steps to take to decommission the present massive installations when the reserves are depleted; to what extent can the interests of those concerned be reconciled- navigation (surface and submarine), fishing, the environment, the oil industry, governments? Should removal be total or partial? What measures, national and international regulations should apply? The above issues are to be considered in evolving a comprehensive legal framework for offshore decommissioning in Nigeria.

Richard, Dodson. "Meeting Today's Plug & Abandonment/Decommissioning Demands – Legal and Physical Complexities of Abandoning an Offshore Facilities" (2001) *World Oil* 320-325

This article explores how to handle the legal and physical complexities of decommissioning an offshore facility. It also looks at the increased pressures of liability, environmental issues, safety and how plugging the well and decommissioning should be conducted to best serve the industry, the companies involved and the public. This article offers a useful background for the discussions in this thesis.

Woodliffe, John. "Decommissioning of Offshore Oil and Gas Installations in European Waters: the end of a Decade of Indecision" (1999) 14 *I.J.M.C.L.* 101.

This article traces the main stages in the development of current legal regime – OSPAR, for the decommissioning of deep-water offshore installations, including the overhauling and rebuilding of regional and international agreements. It examines the implications of the assertion of interest in this area and also documents the outcome of the Brent Spar saga. This article concludes with an assessment of the OSPAR Decision of 23 July 1998, which appears to provide the long sought international agreement on offshore decommissioning. This work will be a useful summary of the issues that arose at the different stages of the negotiations of OSPAR.

## **SECTION TWO**

### **MONOGRAPHS**

Gao, Zhiguo. *Current Issues of International Law on Offshore Abandonment* (Dundee: C.E.P.M.L.P,1997).

This book offers an up-to-date overview of the recent developments of international law on offshore abandonment. The author scrutinises the current issues and debates on the subject at both international and national levels, with some special reference to the legislation and practice in the UK. By studying the current issues and trends in international law and policy developments, this book undertakes to provide practical considerations as to the possible resolution of some of the prominent problems faced by the international community in general and some member states in particular. Chapter 2 of this book is particularly useful as it discusses the various treaties, multilateral and regional conventions on offshore decommissioning.

Wills John & Ewan C Neilson, *The Technical and Legal guide to the UK Oil and Gas Industry* (Aberdeen: Aberlour Press, 2007).

This book provides a guide to the UK oil and gas industry cutting across its technical and legal aspects. Written by 44 authors, with contributions from 20 companies, institutions and other organisations, the text combines introductions to all activities required to find and produce oil and gas and takes the reader through the general principles of applying for licences in the UK, exploration and production, the subsequent development and operation, and eventual decommissioning. This book gives us a comprehensive guide to the laws on decommissioning in UK.

## ARTICLES

Amakiri, A. "Developing An Offshore Installations Decommissioning Policy In Nigeria" (1997) O.G.L.T.R 11.CFCVF C V

This article examines the challenges faced by policy makers in selecting the best instrument for offshore decommissioning policy in Nigeria. It discusses the environmental aspects of offshore decommissioning and the need for an effective decommissioning policy in Nigeria. It proposes modeling our decommissioning laws after the various international instruments on offshore decommissioning. This work will serve as a useful guide in discussing the challenges of developing a decommissioning framework in Nigeria.

Fayette, Louise. "New Developments in the Disposal of Offshore Installations" (1999) 14 I.J.M.C.L. 523.

This article examines the developments at the OSPAR Commission, at the European Parliament, by the Scientific Group of the London Convention 1972, and in the United Kingdom, which has now implemented the OSPAR decision in its national regulatory regime. This source will help us to examine the developments of UK's regulatory framework for offshore decommissioning.

Kachikwu, E. "Legal Issues in the Oil and Gas Industry" (1989) 2 G.R.B.P.L 33.

This article gives a brC CVFC oad overview of the relevant legal issues in the Nigerian oil and gas sector and the various legislation that relate to them. It also provides a brief historical overview of the legal regime of the oil and gas industry in Nigeria. This material is helpful in understanding the legal regime of oil and gas exploration in Nigeria. In contrast, a recent study by Olawale cited below gives insights into what laws should be put in place for managing environmental impacts of offshore activities in Nigeria.

Olawale Yinka, "The Legal Framework for Oil and Gas Production in Nigeria" (2004) 15 O.S.L.R 73.

This article gives accounts of the necessary legal requirements for oil and gas exploration in Nigeria. It also gives insights into what laws should be put in place for regulating the environmental impacts of offshore activities in Nigeria. This will help this work in its overall objectives of providing suggestions for an effective law against dumping of offshore oil and gas facilities in Nigeria's waters.

Side J., *et al* 'Current Controls for Abandonment and Disposal of Offshore Installations at Sea' (1993) 17 Marine Policy 354-362

The article takes a cursory look at the provisions of international law on the removal of offshore facilities. It recommends an integrated regulatory framework for decommissioning of offshore installations, and disposal of associated residues in the North East Atlantic. While also proposing the enactment of this integrated regulatory framework in UK law, it also suggests that offshore operators should follow a dual approach which considers both the decommissioning requirements of the Petroleum Act and any requirements that may arise from Part II of the Food and Environment Protection Act which deals with sea disposal. This work will be very useful in analyzing international efforts at regulating the deep sea disposal of off shore facilities. It also offers an analysis of the UK decommissioning law and its shortcoming. This will be useful in analyzing the transferable ideas from UK to Nigeria.

## SECTION THREE

### Useful Links.

For an overview of the Second Report of the Scientific Group on Decommissioning Offshore Structures. The environmental impacts of the new disposal options for Brent Spar, online: <http://www.nerc.ac.uk/decommissioning/report2.pdf>

For an overview of the first report by The Scientific Group on Decommissioning (Natural Environment Research Council), 1996, for the Department of Trade and Industry. The task of the Group is to "examine the scientific evidence in relation to the potential environmental impacts of the disposal of large off-shore structures, using the Brent Spar as an example". Online: <http://www.nerc.ac.uk/oilrpt.htm>

For an overview of environmental impacts of the Decommissioning of Oil and Gas Installations in the North Sea by Dr. Alastair Grant, University of East Anglia, UK. Online: <http://www.uea.ac.uk/~e130/cuttings.htm>

For an overview of Nigerian environmental laws, see Laws of the Federation of Nigeria, online: FGN, <http://www.nigeria-law.org/LFNMainPage.htm>