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Formulating a Protocol for Decommissioning of Offshore Oil and Gas Installations in the Gulf of Guinea Region: A Comparative Study

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ABSTRACT

Oil and Gas exploration and exploitations have been ongoing for more than half a century in the Gulf of Guinea (GoG). However, recent discoveries of oil and gas deposits deep offshore along the coast of the GoG has increased exploration activities. Removal of offshore installation is a rigorous and complicated process which needs stringent regulations to ensure environmental protection of marine life and ensure safety of navigation at sea among other issues. Therefore, as these oil and gas installations approach the end of their productive life, removal of these installations from the marine environment becomes inevitable. Consequently, the need for the existence of a regional legal framework or policy to govern the removal process within the GoG becomes imperative. Using the doctrinal approach, the paper examines treaty provisions which are binding on individual member States, as well as their obligations under the GoG Commission in relation to the 1958 Geneva Convention on the Continental Shelf (GCS), the 1982 United Nations Convention on the Law of the Sea (UNCLOS), the 1972 London Dumping Convention, and the 1981 Abidjan Convention. The paper finds that the absence of a regional protocol or legal framework on removal of offshore installations creates chaos for the marine environment when removal issues arise in the future along the coast of the GoG. It concludes by making recommendations for a regional legal framework to ensure the smooth removal of installations in the future.

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Introduction

Decommissioning or *removal* refer to the winding phase of oil and gas operations on the site where extraction equipment and installation are located. The present study aims at exploring the idea of formulating a regional legal framework or marine policy for the decommissioning of offshore oil and gas installations on the Gulf of Guinea (GoG) with a view to proffering solutions to its relevant issues. Obligations of member States under the 2001 Gulf of Guinea Treaty are examined, as well.. Ultimately, the problem of the absence of a codified legal or policy framework in the form of Protocol among member States of the GoG Commission on the subject is discussed. Employing qualitative design, the study investigates available cases, statutes, conventions and protocols. It concludes by making recommendations on the content of the preliminaries of a legal framework prior to its enactment. The present paper discusses some existing literature on the subject of decommissioning to elucidate the importance of different components of the complicated process of decommissioning such as legal, technical, financial and environmental parts.

Cameron,[1] in his work addressed the problem of decommissioning as it affects legal regulation and policy, technical and financial involvements. The issue of decommissioning over the years has raised concerns due to the increase in number of oil and gas installations constructed offshore. The economic, legal, technical and financial challenges have made decommissioning a complex process. According to Cameron, "uncertainty is a defining feature of decommissioning".[2] The work examined the 1982 United Nations Convention on Law of the Sea (UNCLOS) on the basic rules for the removal of disused installations in accordance with standards set up by the International Maritime Organization (IMO) and others. The importance of the author's work to this paper is to the extent that the work deals with the adoption of international legal instruments on decommissioning which is a fundamental obligation imposed on coastal States by UNCLOS. However, the author did not examine the provision of the Convention based on which States have an obligation to enact national laws and policies to the effect.

1. Peter Cameron, 'Tackling the Decommissioning Problem', (1999), 14 Journal of Natural Resources and Environment 121, 121.
2. Ibid.

Claisse and others,[1] in their work, examined the impact of partial removal option for decommissioning oil and gas installations on fish biomass production. The impacts of partial removal of platforms to fish biomass production could be determined by multiplying the standing stock biomass and total production density matrices by the surface area of the structure. This approach option to decommission an installation intends to conservatively refrain from underestimating the impact of partial removal of such installations. The core of their work is that partial removal option for decommissioning impacts on the production of fish biomass, although there is little scientific data to support. The authors are of the position that the primary impact of partial removal will be a reduced Standing Stock Biomass (SSB). The relevance of this work to the paper is to the extent that it supports the argument that disposal options of decommissioning of installations in oil producing areas must gear towards the protection of marine life and species from extinction caused by decommissioning programs and activities. However, the work did not examine other aspects of decommissioning such as cost of financing, regulating framework among others.

Hamza,[2] discussed international rules regulating decommissioning of offshore installations. The author acknowledges in his work that one major problem in dealing with decommissioning of oil and gas installations especially offshore is the lack of a definite legal regime and a legal definition of the term "decommissioning". The author discussed the meaning of decommissioning from an international law perspective using various global legal instruments.[3] The process of decommissioning varies between countries according to their national laws. The author is of the position that in Malaysia, the decommissioning guidelines identifies four phases: pre-decommissioning, implementation, post decommissioning and field review.

Hamza argues that the process could be divided into three phases for environmental assessment. These phases are; the cold phase, removal and disposal. He states that not a single oil producing developing country has put in place a comprehensive legislation on decommissioning. This goes to support the position of this thesis that international legal instruments need to be adopted for the regulation of the decommissioning of oil and gas installations in Nigeria. This problem draws up other issues such as cost of financing the decommissioning project and the management of environmental influence of the removal of structures. The author examined some international legal instruments such as the 1958 Geneva Convention on the Continental Shelf, the 1982 United Nations Convention on Law of the Sea and the 1989 IMO guidelines, highlighting the position of international law on decommissioning of oil and gas installations. He concludes by recommending that most developing countries that produce oil should as a matter of concern enact their national legislation on decommissioning of oil and gas installation.

Henrion, Bernstein and Swamy[4] discussed decision analysis for decommissioning of platforms using various options. According to them, the criteria for selection as examined in their

1. See Jeremy T Claisse and others, 'Impact from Partial Removal of Decommissioned Oil and Gas Platforms on Fish Biomass and Production on the Remaining Platform Structure and Surrounding Shell Mounds', (2015), 10 PLoS ONE 1, 1-19.
2. See BA Hamza, 'International Rules on Decommissioning of Offshore Installations: Some Observations', (2003), 27 Marine Policy 339, 339-348.
3. These instruments are International Maritime Organization (IMO) Guidelines 1989, 1958 Geneva Convention on the Continental Shelf, Oslo and Paris (OSPAR) 1998 and 1982 United Nations Convention on Law of the Seas (UNCLOS).
4. Max Henrion, Brock B Bernstein and Suray Swamy 'A Multi-Attribute Decision Analysis for Decommissioning of oil and Gas Platforms', (2015), 11 Integrated Environmental Assessment and Management 594, 594-609.

work include the existing legal framework, technical feasibility and economic feasibility, among others. The authors addressed issues affecting the options for decommissioning to ensure a smooth program. The work maintains its focus on some options for decommissioning such as complete removal option, partial removal option, the presence of a Heavy Lift Vessel (HLV) etc. The issue of leave in place or re-use of decommissioned structure was also addressed. Any of these options are adopted after evaluation to ensure that the option best suited for the particular structure to be decommissioned is adopted.

1. Removal of Offshore Installations along the Gulf of Guinea (GoG)

Decommissioning is a frequent term in the international law arena. [1] The term is lauded yet elusive. A common definition of the term is provided by the UK Offshore Operators Association (UKOOA) as "the process which the operator of an offshore oil and gas installation goes through to plan, gain government approval and implement the removal, disposal or reuse of the structure when it is no longer needed for its current purpose".[2] It is also used commonly to denote to “the process of commencing the final removal of oil and gas installations used during operations whether onshore or offshore with the intention of restoring the environment to its previous state through a rehabilitation program contained in a decommissioning plan.”[3] Host communities and human settlements located around the area of operations are usually touched by the impacts of decommissioning.[4] It was brought to the forefront of global environmental issue pursuant to the celebrated case of the *Brent Spar Case*.[5]

In its broadest meaning, the term denotes generally to the process of bringing the life cycle of a facility to an end. It is done when a facility is depleted of resources and, hence, economically unproductive. The act and process of removal or abandonment of a facility- whether it is onshore or offshore- in the wake of reduced productivity is referred to as decommissioning. The conceptual scope of decommissioning is more expansive than abandonment. Decommissioning of oil and gas installations are the final stage in petroleum exploration. It is done mostly offshore, though there are onshore decommissions, as well. All in all, where extraction of oil and gas is no more economically productive, the decommissioning of the installations becomes mandatory, as the unneeded infrastructure could endanger the safety of navigation at sea, contaminate the marine environment and degenerate aquatic life above all.

The removal process commences with preliminary discussions with relevant regulatory

1. Hamza (no 4), 339.
2. See <http://www.ukooa.co.uk/issues/decommissioning/background.htm#whatis> accessed May 12, 2022.
3. Ifeoma Palema Enemo and others, 'Proposing a Legal Framework for Decommissioning of Oil and Gas Installation in Nigeria', (2019), 45 Commonwealth Law Bulletin 211, 211-230.
4. Ondotimi Songi, 'Regime of Decommissioning Ghana's Offshore Hydrocarbon Facilities', (2014), 12 Oil, Gas & Energy Law 8, 8.
5. Brent Spar was a North Sea oil storage and tanker loading buoy in the Brent Oilfield. It was operated by the UK Shell Company with the completion of a pipeline connection to Shetlands. in 1991, it was decided that the storage facility was of no more value. Therefore, disposal options were considered and evaluated. Shell UK and Esso had jointly owned the Brent Spar Installation, however, Shell UK agreed to the decommissioning. The installation infrastructure was 147m high and 29m wide and displaced a total amount of 66,000 tons of oil. Having evaluated the costs of disposal, the Shell UK decided to get rid of the installation by sinking it into the sea. Shell UK negotiated the case with the representatives of fishing and environmental organizations in the UK and claiming that the sinking will leave insignificant contamination damage, managed to acquire a licence from the UK government to dispose of the installation in North Feni Ridge within UK waters. As the news leaked out, Greenpeace, an environmental rights group, organized a worldwide campaign against Shell UK, claiming that the installation actually contained about 5,500 tonnes of oil instead of the 50 tons which Shell UK claimed. Greenpeace maintained that the disposal of the installation into the sea would be catastrophic the marine environment. Eventually, the agitated campaign by the Greenpeace thwarted the Shell UK plan for decommissioning by sinking the installation.

agencies to the submission of a proposed plan for decommissioning. This process further entails meetings with members of the public such as community leaders, environmental activists and so on. There are about ten steps to decommissioning an installation: i) Project Management; ii) Engineering Analysis; iii) Regulatory Compliance; iv) Preparation; v) Well Abandonment; vi) Conductor Removal; vii) Structure Removal; viii) Pipeline and Cable Removal; ix) Material Disposal; x) Site Clearance. [1]

Project Management involves a detailed plan for the process of decommissioning beginning from the approval stage to site clearance. It contains the best option available for decommissioning of such installation. Engineering analysis deals with appraisal of the risks involved in decommissioning process, with further recourse to the protection of humans and the environment.[2]As regards the regulatory compliance, the approval to decommission an installation is obtained ahead of the commencement of the decommissioning process. The application for approval to commence the decommissioning of installations must be in line with the laid down laws and regulations.[3] Preparation entails mobilization of machineries and other ancillary equipment necessary for the commencement of decommissioning. Some preparatory activities include the clearing of sites, flushing and cleaning of pipes and tanks and so on.[4]

These steps are meant to be in accordance with enacted legislation or a formulated Protocol regulating the process of decommissioning of oil and gas installations. However, the absence of such a protocol among the GoG States would expose the marine environment of the coast of GoG to the inherent dangers of lack of decommissioning. Therefore, GoG States must as a matter of urgency formulate and adopt a protocol at the regional level for the removal of offshore installations from the available international legal instruments on decommissioning. It is fundamentally important for GoG States to formulate a regional protocol and adopt it because offshore installations would be approaching the end of their productive life span in no distant time on the coast of the GoG.

While abandonment is a partial cessation of operations on the extraction site, decommissioning denotes to the total cessation of productions whereby the operator removes the installation completely. Onshore removal of installation poses a more challenging burden in comparison with the offshore removal as it requires more technicality and expertise both in terms of the cessation of oil and gas operations and in the removal process of the installations, structures, plugging of well heads. The decommissioning is indeed incomplete or more technically unfulfilled if the operation is ceased but the installations are not removed. It is advised that States which are Parties to the international legal instruments on decommissioning of installations such as the Economic Community of West African States (ECOWAS) and GoG Commission learn from the success scenario of the States that had already established frameworks in this respect.

the United Kingdom has developed workable legal frameworks on decommissioning which

1. A Saeed, 'Identify and Handle Safety Challenges during Decommissioning of Offshore Installations', (Msc Thesis, University of Stavanger 2016), 8.
2. Ibid 8.
3. Ibid 8.
4. Ibid 9.

could prove helpful to the member States of GoG Commission, in Particular Nigeria.[1] It is worth mentioning that the enactment of UK legislation on decommissioning was on grounds of guidelines of some international and regional legal instruments such as the Oslo and Paris (OSPAR) Convention. The UK legal system anticipates a Regulator with responsibilities on guidelines for decommissioning. The Offshore Petroleum Regulator for Environment and Decommissioning (OPRED) stands as the Regulator on matters of decommissioning in the United Kingdom. It is upon OPRED to warrant that the requirements of the 1998 Petroleum Act and international obligations are observed. Indeed, the Regulator is the sine quo non to the completion of the decommissioning process. It addresses the complicated issues of UK offshore installation decommissioning. OPRED makes sures that the beneficiaries of the exploitation and production processes now stand liable to the decommissioning of installations.[2] The fact that the polluter hast to compensate for damages he incurred is, of course, endorsed in many global environmental protection treaties.

The GoG Commission lacks a binding legal body- a committee or agency- which could regulate the total process of decommissioning with in GoG region. The establishment of a Regional Regulatory Authority (RRA)- a representative of the Host State- which supervises the decommissioning process is highly recommended. The RRA should be entrusted with the authority to secure the compliance of member States with the regulations and legal provisions on environmental health and safety throughout the process of decommissioning. In the same way the OPRED acts in the United Kingdom (UK) to secure the the proper implementation of the provisions of the UK Petroleum Act (1998) and international obligations; the RRA under the regional legal or policy framework on decommissioning would perform the same responsibility. It should be pointed out that the treaty establishing the GoG Commission must be amended either through an additional Protocol or a constitutive Act of the Heads of Governments to ensure its legality.

Most of the developing countries which happen to be major oil producers especially within the Members of ECOWAS and GoG Commission lack a workable legislation or policy on removal of offshore installation at the national level. Indeed, these Host countries and the Operators are merely acting consistent with a number of existing contractual obligations such as Production Sharing Contracts (PSC), Risk Sharing Contract (RSC) etc.[3] The peril posed by the absence of a regional protocol or framework for the removal or decommissioning regime for offshore installation in the GoG is that Oil producing countries like Nigeria, Ghana, Angola and others may encounter a similar devastating situation as did Malaysia when she spent a large sum of money to finance the decommissioning of some offshore installations because she lacked clear-cut legislation or legal framework in this respect. Consequently, Malaysia alone bore the entire cost to finance the removal of those installations. Therefore, an implementable regional protocol or framework pieced together from other international and regional legal instruments such as the 1988 IMO Guidelines, OSPAR Convention and others would help the

1. See Efe Uzezi Azaino, 'International Decommissioning Obligations: Are there Lessons Nigeria Can Acquire from the UK's Legal and Regulatory Framework?', (2013), 16 CEPMLP Annual Review 1, 1-19.
2. United Kingdom (UK) Petroleum Act 1998, s29.
3. Hamza (no 4), 339.

process of removal of offshore oil installations along the GoG. This would help Member States in the coast of the GoG to reduce financial cost of removing the offshore installations using a collective pool of resources.

Some African countries which are members of the GoG Commission use Production Sharing Contract (PSC), Joint Venture Agreements (JVAs) and other forms of commercial partnerships as methods of financing projects as source of decommissioning security.[1] A decommissioning security is primarily intent on ensuring that the funds for the implementation of the process are available. In so doing, it is of high importance that the Parties use the Decommissioning Security Agreement (DSA).[2] In the United Kingdom, DSA is the recourse in the UK as the activator in providing funds for decommissioning. There are several methods to earn the funds, including thorough Cash, Letters of Credit and Decommissioning Trust Fund (DTF) among others. The need to establish a global decommissioning fund has recently been vehemently argued..[3] In their paper on providing a legal framework on decommissioning fund, Komusiga and Ole (2018) suggested using the Ugandan Petroleum Act as an example.[4]

Consequently, this paper argues in support for the establishment of a Regional Decommissioning Fund (RDF) among the GoG Commission members which would have its roots in the proposed regional legal framework. It is sorely needed because of the huge oil and gas infrastructure contaminating the GoG region. As of 2022, it is estimated that an amount of USD $340 billion is needed for the removal of offshore installations around the world.[5] Furthermore, the number is estimated to jump to £15 billion for the UK industry over the next decade.[6] As a result of this knowledge, the GoG member States could pull financial resources together in addition to the use of a regional Protocol framework to ensure the safety of the marine environment during the process of removal of offshore installations. The Member States would have quota contributions or counterpart funding to ensure availability of funds in the decommissioning fund which would be kept in an escrow account.[7]After all, the essence of the regional Protocol for decommissioning of oil and gas installation is the protection of marine life, the environment and safety of navigation at sea.

1.1. Treaty Ratification and Obligations under the Gulf of Guinea Commission Treaty

The obligations which the coastal States such as GoG member States are bound to comply with have been properly addressed in the Geneva Convention on the Continental Shelf (GCS) of 1958.[8] Under the Convention, it is the exclusive right of a coastal State over the continental shelf to explore and exploit natural resources as well as to offshore installation to which no

1. Ngozi Chinwa Ole, 'The Financial Securities for Decommissioning of Offshore Installations in Nigeria: A Review of the Legal and Contractual Regime', (2017), 15 Oil, Gas and Energy Law 1, 5.
2. Damilola O Salawu, 'Bringing Down the House: Decommissioning Issues in Nigeria's Upstream Oil and Gas Sector', (2014), 12 Oil, Gas & Energy Law 13, 13.
3. See Natalia Meza Lomonco, 'How to Finance Decommissioning in the Offshore Petroleum Industry': The Role and Importance of Decommissioning Fund', (2013), 16 CEPMLP Annual Review 6.
4. Juliet Komusiga and Ngozi Chinwa Ole, 'Ugandan Legal Framework on Decommissioning Fund: Is There an Achilles Heel, and Can Lessons from the UK Help?', (2018), 16 Oil, Gas and Energy Law 1, 8.
5. Jia Li and others, 'Decommissioning in Petroleum Industry: Current Status, Future Trends and Policy Advices', (2019), 237 IOP Conference Series: Earth and Environmental Sciences 1.
6. Oil and Gas UK, Decommissioning Insights 2018 (The UK Oil and Gas Industry Association Limited 2018) 4.
7. An Escrow is an account or fund held by a Third Party on behalf of contracting parties to a transaction.
8. Nigeria signed and ratified the Geneva Convention on the Continental Shelf on April 28, 1971.

other state is allowed except through the consent of such member coastal State. Additionally, the GCS stipulates the method of removal that the coastal States must implement in the decommissioning process under Article 5 (5). The Article reads as follows:

> *"Due notice must be given of the construction of any such installations, and permanent means for giving warning of their presence must be maintained. Thus, such installations which are abandoned or disused must be entirely removed."*

A total removal of any abandoned installation is required by this which is a giant leap in the protection of the marine environment. On the other hand, the UNCLOS is more tolerant and resilient in this respect by allowing partial removal where total removal is too costly or impossible.[1] Article 60 (3) of the Convention stipulates that:

> *"Due notice must be given of the construction of such artificial islands, installations or structures, and permanent means for giving warning of their presence must be maintained. Any installations or structures which are abandoned or disused shall be removed to ensure the safety of navigation, taking into account any generally accepted international standards established in this regard by the competent international organization. Such removal shall also have due regard to fishing, the protection of the marine environment and the rights and duties of other States. Appropriate publicity shall be given to the depth, position and dimensions of any installations or structures not entirely removed."*

The 1982 Convention modified the previous Convention on removal process greatly. However, there is a complication that some of the member States of the GoG Commission are Parties to both Conventions and there are differences in how the two conventions address a same issue. To overcome this apparent contradiction, the GoG Commission through its treaty provision when amended or by the Acts of its legislative body can decide that the Commission would adopt any removal method. This position would automatically bind members of the GoG Commission. This should be done under the auspices of the Regional Regulatory Authority (RRA) using the drive for regional economic integration and above all protection of the ocean's environment as a motivation.

The strategy appears practical because under the legal framework of UNCLOS, it is the obligation of a coastal State to enact domistic laws and regulations to secure marine environmental safety.[2] Being under the GoG Commission as a block, the GoG States can pass a resolution making member States committed to be bound by the legal policy framework on decommissioning. When this resolution is passed, member States become bound by it. The resolution to adopt any removal method by the Commission is to the extent that it will bind both Parties to the Convention and Non-Parties to the Convention who are also members of the GoG Commission. The purpose is to ensure that the strategic approach to removal is mutually

1. Nigeria ratified the 1982 United Nations Convention on the Law of the Sea on August 14, 1986.
2. UNCLOS, Article 208.

concordant among members of the Commission within the region. The Commission is bound by the collective decision of members through its decision-making organ.

Moreover, removal of offshore installations lies within the jurisdiction of the States.[1] Furthermore, insofar as the removal of offshore installations falls within the territorial waters or contiguous zones of littoral States, the existing legal regimes of such States has to be meticulously examined to devise plans that avoid conflicts of purpose.[2] However, the obligation could be passed on to the operator(s) or managers of the installations effectively where they are located through the GoG Commission regulated legal framework. International Oil Corporations (IOCs) mainly constitute the operators. It is in the process of applying the provisions of the treaties that the transfer, modification or removal of certain responsibilities by the member States to the operator of these installations may follow, deriving such powers from the available international legal instruments and the regional legal policy framework on removal of offshore oil installations.

Another legal achievement instrumental in the regulation and control of waste disposal at sea by national administrations in the London Dumping Convention of 1972. It stipulates and specifies the liability of the coastal States.. Nigeria is a member state of the London Dumping Convention and the GoG Commission. According to these conventions, any member state is obliged to withhold deliberate waste disposal at sea waters.[3] The word 'dumping' denotes to any deliberate disposal or materials, especially of contaminants into the sea from or of vessels, aircrafts, platforms or other structures and infrastructures at sea[4] A coastal member State of the convention is bound to ban dumping of wastes or other forms of materials unless it is permitted by the relevant authorities after meticulous examinations.[5] In addition, it is provided in the London Dumping Convention that member States should implement the anticipated measures of the convention.[6]Furthermore, violations of the provisions of the Convention should be anticipated and necessary preemptive and punitive measures should be taken by the Contracting Parties in advance.[7] The Convention recognizes the interest of the Contracting Parties to enter into regional agreements consistent with the convention to prevent dumping of wastes.[8] Consequently, the above provisions could form part of the regional legal policy for the removal of oil and gas installation.

The 1981 Abidjan Convention,[9] being a regional convention exists to protect and develop the marine and coastal environment of both west and central African regions. Pollution from ships, aircrafts, land-based sources are the various forms of harmful pollutions the convention

1. See Mark Osa Igiehon and Patricia Park, 'Evolution of International Law on Decommissioning of Oil and Gas Installations' (SPE/EPA/DOE Exploration and Production Environmental Conference, San Antonio, Texas, February 2001) <https://onepetro.org/SPEHSSE/proceedings-abstract/01EPEC/All-01EPEC/SPE-66555-MS/134671> May 15, 2022.
2. Ibid.
3. Nigeria acceded to the 1972 London Convention on October 30, 2010.
4. London Dumping Convention 1972, Article III (1)(a)(i) and (ii).
5. Ibid, Article IV(1)(a)(b)(c) and (2).
6. Ibid, Article VII(1)(a-c).
7. Ibid, Article VII(2) and(3).
8. Ibid, Article VIII.
9. 1981 Convention for the Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region (Abidjan Convention)

exists to address.[1]The Convention further imposes the obligation on parties to the Convention to take appropriate measures to prevent, reduce, combat and control pollution resulting from activities relating to the exploration and exploitation of the seabed resources within their jurisdiction. This includes artificial islands, installations and structures. It is important to state that the Convention did not mention decommissioning directly, however, the convention obligates Parties to ensure the prevention of marine contamination by dumping from artificial islands, installations and structures.[2] Offshore oil and gas installations can qualify as artificial islands, installations and structures. Activities that take place on installations during the course of exploration and exploitation of seabed minerals could result in dumping and consequently cause marine pollution. Oil and gas installations at sea when due for decommissioning can be classified as installation or structures on the sea which must be properly controlled to avoid marine pollution. The implication is that Parties now have the obligation to make national laws regulating the process of addressing the prevention of dumping at sea of harmful wastes in accordance with the provisions of the Convention.

However, the right to make these laws would be transferred to the regional level where a legal framework on removal of offshore oil and gas installations on the GoG would be agreed and implemented by Parties. The Abidjan Convention would have been the perfect piece of international legal instrument for the regional body. However, this treaty only addresses issues such as prevention, combating and reduction of pollution from dumping of toxic substances arising from exploration and exploitation of seabed resources. The removal of offshore oil and gas installation being a complex process involving legal, technical, environmental and financial obligations requires an implementable legal policy of framework within the GoG. This falls withing the scope of international law because offshore installation operation cuts across international maritime boundaries.

International Law concerns the relationships between States, individuals, multinational corporations through binding rules which strive for peaceful coexistence of the different countries in world. There are many treaties and laws- including the International Environmental Law- which emanate from it. These law do not impinge on the internal jurisdiction of the countries, but are binding for all nations in the international arena. The Permanent Court of International Justice (PCIJ), in the case of *Exchange of Greek and Turkish Populations*, maintained that:

> *"[a] state [which] has contracted valid international obligations is bound to make in its legislation such modifications as may be necessary to ensure the fulfillment of the obligations taken."*[3]

Traces of international law in the domestic laws of countries are detected in cases where international obligations are incorporated in the enactment and enforcement of national legislations. However, in addressing the issue of regional legal policy on decommissioning, States must surrender some of their national legislative sovereignty to a regional legislature such as

1. Ibid, Article 5-7.
2. Ayoade Morakinyo Adedayo, 'Environmental Risks and Decommissioning of Offshore Oil Platforms in Nigeria', (2011), 1 NIALS Journal of Environmental Law 1, 9.
3. Exchange of Greek and Turkish Populations (Advisory Opinion), (1925), P.C.I.J. (ser. B) No. 10 [20]-[21].

the ECOWAS Parliament where laws made for the region become binding and the Assembly of Heads of State and Government of the GoG Commission.[1] The Commission was originally intent on creating bilateral trust, peace and security, and harmony between the States in the exploration and exploitation of the natural resources of the Gulf region. The Commission's stabilizing measures were considered indispensable for the economical development of member States and in effect the general welfare of the residents of the Gulf region. Areas of shared interests and cooperation specifically on matters of peace and security of the maritime, exploration and exploitation of hydrocarbon, fishery and mineral resources for economic flourishing and integration of the Gulf region are rightly addressed in the treaty.

2. Formulating a Regional Legal Framework for the Removal of Offshore Installations in the Gulf of Guinea (GoG)

Formulating or proposing a regional legal or policy framework to regulate the removal of oil and gas installations in the GoG should be consistent with international legal instruments such as conventions, protocols and other guidelines which involves the legislative organ of the GOG Commission i.e. the Assembly of Heads of States and Government which meet once a year in regular sessions and at any time in extra-ordinary sessions. Their decisions are usually subject to approval by two-thirds majority of Member States of the Commission. The regional legal framework must emanate from the existing conventions, protocols and provisions. These multilateral environmental agreements are the raw materials for the introduction of a regional policy framework which would address and regulate the total removal process of oil and gas installation in GoG. This article argues in support for a regional legal policy for the removal of oil and gas installations on the GoG similar to the Oslo and Paris Agreement (OSPAR Convention) which gave birth to the regional legal instrument for European nations involved in the protection of the maritime environment with binding effect on member States.

The regional policy should incorporate precautionary and the polluter pays principles for effective implementation during removal of offshore oil and gas installation. To strongly postulate a position for this policy, the global conventions which member States have signed must

1. The Gulf of Guinea Commission was established in accordance with Article 2 of the 2001 Gulf of Guinea Treaty. In effect, several organs were formed under the Gulf of Guinea Commission in attaining its high goals. The organs include the Assembly of Heads of States and Government, Council of Ministers, the Secretariat and Ad-hoc Arbitration mechanism under Article 6 (a-d). The Assembly of Heads of States and Government is the supreme organ of the Commission which is held once a year in regular sessions. Extra-curricular sessions are usually held by approval of two-thirds majority of Member States of the Commission in accordance with Article 7. Since its formation in 2001, the Commission has adopted many workable strategies in response to multidimensional threats to maritime security in the region through integrated maritime security efforts according to International Peace Institute Expert round table Meeting 2013 Report 1. Reports of the incessant attacks happening along the GoG were the original trigger for the introduction of these strategies. Having been an arena of criminal actions such as piracy and armed robberies, drug trafficking, etc. and subsequently a zone of high insecurity and instability, the GoG was dubbed 'the New Danger Zone' by the International Crisis Group (ICG). See Katja Lindskov Jacobsen and Johannes Reber Nordby, Maritime Security in the Gulf of Guinea Report (Royal Danish Defence College Publishing House 2015) 7. According to Gilpin, the maritime security issues in the GoG caused a reported estimate of revenue loss of $2 billion to the region. See Raymond Gilpin, 'Enhancing Maritime Security in the Gulf of Guinea' (2007) 6 Strategic Insights 1, 1. As the tensions in the region escalated, the GoG Commission was formed aiming at combating these security challenges. The regional organization also aimed at achieving an acceptable level of maritime security through collaboration of the member States. These strategies are coordinated by the GoG Commission which is comprised of countries in both west and central Africa. Ultimately, these collaborative strategies could also prove helpful in designing new regional legal framework and policies for the decommissioning of offshore oil and gas installation to ameliorate the maritime safety, peace and overall security in GoG region.

be examined to devise adequate provisions to enhance the proposed regional policy framework and implementation. It is important to note that in bringing to life this policy through the use of international legal instruments would ensure for sustainable use of the oceans resources, ensure the peace of the marine ecosystem, preventing environmental degradation and pollution and safeguarding navigation and life at sea. By reason of regional integration efforts of the Commission and other bodies, this proposed legal policy or framework would be automatically binding on member States upon signature and ratification without recourse to domestic constitutional process of implementation found in the laws of member States. This is because the domestic legal processes clog the wheels of implementation of regional legal policies and framework. In proposing a regional policy on decommissioning of oil and gas installations in the GoG, some provisions from these international legal instruments are mingled together and arranged to form a unified body of policy document and ratified by member States of the Commission for the region.

For the region to have a policy on decommissioning, the Commission should incorporate some parts of the existing Conventions on the removal of offshore installations. Arguably, the proposed legal framework does not need adopt copiously from the above-cited international legal instruments. Rather, a workable legal policy document for the GoG's Decommissioning regime should include intrinsically the following indispensable ingredients:

1. A removal policy must be in place;[1]
2. Regional legal procedures must be established to acquire the member States' approval in the removal of an installation;
3. Environmental restoration and remediation strategies to compensate for the contamination and other devastating results of an offshore installation decommissioning must be anticipated at the regional level;
4. A regional decommissioning funding cycle must be devised;
5. Technical provisions stipulating the prevention of hazardous material release as well as the safety of maritime life during the entire process of decommissioning must be incorporated;
6. The regional Protocol should Establishing technical agency to meticulously supervise the decommissioning process in the regional Protocol;
7. And finally designing a decommissioning database where all information on the installation removal (including the method, time and cost) are stored.

1. See United Nations Development Program, Annual Report 2011 (United Nations Development Program 2012).

Conclusion

Handling the decommissioning process effectively and at the minimum damages requires the designation of policies and legal frameworks in the region as well as sanctions for non-compliance. The purpose of the regional protocol or legal framework is to protect the marine environment as well as to bind operators to comply with global standards in the arena of international oil and gas industry. The responsibility lies primarily within the jurisdiction of the legislative organ of the Commission or an amendment of the treaty through an additional protocol to ensure its legal basis. The author maintains that the recommended contents of what the regional Protocol or legal framework should contain must be treated urgently as many offshore installations need to be assessed in preparation for removal in the near future. Notably, more discoveries of offshore petroleum deposits are legitimate proofs for the introduction of a regional Protocol legal framework on removal of offshore installations to avoid prospective environmental catastrophes at offshore installations which could in effect imperil the overall human and marine life cycles. In light of the above, it is highly recommended that a regional Protocol framework be developed for the region which incorporates the provisions of existing global conventions, protocols and articles.. Finally, this paper is of the view that African countries who are both old and new entrants into oil and gas production in the necessities of the modern era adopt a proposed legal policy framework on decommissioning at the national and regional level to avoid the 'Malaysian' experience through the auspices of the GoG Commission regional policy.

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