

Implications of the Dawes Island Judgment for Marginal Field Investors in Nigeria



Introduction

The recent judgment of the Federal High Court in *Eurafric Energy Limited v. Minister of Petroleum Resources & Ors*¹ concerning the Dawes Island marginal field has introduced significant legal and regulatory questions for Nigeria's upstream petroleum sector. For marginal field investors and companies operating in Nigeria's upstream sector, this decision highlights the delicate balance between regulatory efficiency aimed at boosting production and legal safeguards protecting licence holders. It has spurred widespread polarised reactions between support for operational efficiency to boost national production and legal due process and the rule of law in the oil and gas sector.

The Dawes Island Dispute

This dispute revolves around the 2020 revocation of the Dawes Island marginal field licence originally held by Eurafic Energy Limited. As a result, it was returned to the available pool and offered again during the 2020 Marginal Field Bid Round. The Petroleum Prospecting Licence was later awarded to Petralon 54 Limited² in 2022, and operations resumed soon after, bringing the field back into active use.³

Eurafric Energy then approached the court to challenge the revocation, arguing that the decision denied it a fair hearing and was marred by procedural flaws. The company also maintained that it had already carried out substantial work on the field, including the production of 62,039 barrels of crude oil between 2016 and 2018, a figure it cited as evidence of real investment and operational commitment. It further argued that the regulator improperly awarded the field exclusively to Petralon 54 Limited, which had been a partner in the original joint venture, after a 2020 presidential directive allowed certain revocations to be revisited and reinstated.

The Court held that the notice revoking Eurafic's licence for the Dawes Island Marginal Field was null, and void.⁴ According to the Court, the procedures under the Petroleum Act and the 2001 Marginal Field Guidelines in effecting the revocation were not complied with. The Court also noted that Eurafic had produced 62,039 barrels of crude oil between 2016 and 2018, which qualifies enough production to renew its licence.

Benefits derived from the revocation were therefore invalidated. The subsequent award to Petralon 54 Limited and the farm-out agreement with NNPC were set aside due to being based on a defective and unlawful title.

Timeline of Key Events

2016-2018

Eurafric Energy produces 62,039 barrels of crude oil

2020

Dawes Island licence revoked & returned to pool

2022

PPL exclusively awarded to Petralon 54 Ltd

Regulatory Background

The Petroleum Industry Act (PIA) 2021, repealed several extant petroleum laws and provided the legal, institutional and regulatory framework for Nigeria's oil and gas industry. Following its enactment, the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) was established as the regulatory authority for upstream petroleum operations,⁵ replacing the Department of Petroleum Resources (DPR). The Commission also noted that indigenous exploration and production companies would play a role in marginal fields development, since the laws expect that these assets are developed.⁶

One of the key provisions designed to achieve optimal production is the requirement for the conversion of a producing marginal field into a Petroleum Mining Lease (PML) under the Act. Under this framework, a producing marginal field may continue operations at its existing royalty rates and under its farm-out agreements.⁷ However, within 18 months from effective date of the Act, the license needs to be converted to a Petroleum Mining Lease in accordance with the new law.⁸

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Months

Timeline from the effective date of the PIA 2021 within which a producing marginal field license needs to be converted to a Petroleum Mining Lease (PML) in accordance with the new law.

The Drill or Drop Policy

This policy was enacted through the PIA 2021 to boost profitability in the oil and gas industry by incentivising marginal field licence holders to prove development milestones toward production within a timeframe or risk losing the asset. Under the PIA 2021, any discovery declared as a marginal field⁹ prior to January 1, 2021, and has yet to produce will have its licence converted into a Petroleum Prospecting Licence (PPL)¹⁰ and shall benefit from the terms for new acreage under Chapter 4 of the Act.¹¹

This means that marginal fields declared prior to January 1, 2021, that are not producing may be converted to a prospecting licence, allowing the holders to continue exploration activities under the fiscal terms applicable to new acreage. However, they are required to commence production within three years; failure to do so may result in the revocation of the field to the government. This requirement is commonly referred to as the Drill or Drop Policy.

Following the enforcement of the Act, the NUPRC moved to cancel awards for companies failing to meet the development milestone specified above. Marginal field is an oil field left undeveloped for a period not less than ten (10) years since its discovery.

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YEARS TO PRODUCE

The mandatory timeframe stipulated by the PIA 2021 for converted pre-2021 marginal fields to commence commercial production before facing mandatory government revocation.

Implications for Operators and Investors

The implications of the Court's decision can be examined from two perspectives to better understand its reactionary impact on the oil and gas sector, which are operational efficiency and due process.

Operational Efficiency

Operational Efficiency: The African Energy Chamber (AEC) released a publication condemning the ruling of the Federal High Court, stating that it “undermines Nigeria's drill or drop policy,” impacting investor confidence and the sanctity of petroleum contracts.”¹² The Chamber described the decision as a judicial overreach, noting that applying the provisions of the PIA in retrospect “undermines the principle of legal certainty that underpins long-term upstream investment.” In this regard, the Chamber prioritises national production over other technicalities.

These concerns reflect a contention between the need for maximised production and the need to adhere to legal procedural frameworks. However, the Court in arriving at its decision was guided by the need for compliance with statutory provisions under the PIA. The Court upheld the principle of legality rather than allowing administrative expediency to override express procedural requirements governing licence revocation.

A, this judgment undermines the strategic roadmap by the NUPRC to increase crude oil production level to 2.5 million barrels per day (bpd), as uncertainty among investors may erode confidence and threaten the applicability of the Act.

Countries compete for capital, and predictability in regulatory decision-making is a key factor in investment location choices. While it may be argued that uncertainty arises when licences are revoked after significant investment, the counterpoint is that legal certainty is also reinforced where courts insist on strict compliance with statutory procedures.

In the present case, the asset remained substantially inactive for approximately 17 years under the original joint venture arrangement. However, Petralon, within a few years of assuming operatorship, drilled two wells, produced about 150,000 barrels of crude oil, and remitted the requisite royalties. These contrasting operational histories formed part of the broader context in which the dispute arose.

Importantly, the Court's decision can also be interpreted as promoting predictability, in the sense that it reinforces the principle that regulatory actions affecting vested interests must comply with established legal procedures. By holding that the revocation process was defective and that Eurafic had demonstrated sufficient activity to warrant protection of its interest, the judgment signals that licence rights are not subject to arbitrary administrative action. From this perspective, the decision may enhance investor confidence by clarifying the legal thresholds required for revocation, even if it complicates short-term asset reallocation objectives.

Production Comparison

62,039

Barrels (Eurafic:
2016-2018)

~150,000

Barrels (Petralon:
Recent + 2 Wells)

Due Process

Conversely, dissenting observers make a case for due process, stating that regulatory compliance must not be overlooked. Regardless of the objective to boost oil production, this does not excuse non-compliance with established procedures. This is grounded in the understanding that the sanctity of contracts and adherence to due process are fundamental to safeguarding investor confidence and securing investments. It is an assurance that fiscal terms cannot be changed arbitrarily after the investment is made, the risk calculation collapses. If regulators can revoke licences without consultation or transition periods, project financing becomes risky for investors. Notwithstanding NUPRC's purported objective to augment hydrocarbon production, Eurafric contended that it had already achieved a cumulative production of 62,039 (sixty-two thousand and thirty-nine) barrels of crude oil prior to the revocation of its Dawes Island Marginal Field licence. The company further argued that the regulator subsequently reassigned the asset to its original joint venture partner, Petralon 54 Limited, without adhering to established procedural safeguards and due process requirements as stipulated under the Petroleum Act and the 2001 Marginal Field Guidelines.

In practical terms, key takeaways for upstream investors and marginal field operators include:



Strict Adherence to PIA: The judgment highlights the importance of strictly adhering to the procedures laid out in the PIA and related guidelines.



Procedural Safeguards: Additionally, licence holders may challenge regulatory decisions where procedural safeguards are not observed.



Documentation of Milestones: Documentation of development activities and production milestones can be critical in protecting licence rights.



Regulatory and Legal Risk: Regulatory and legal risk remains an important factor in marginal field investments.

Conclusion

The Dawes Island judgment may be seen as a double-edged sword for Nigeria's oil and gas sector. On one side, it posits the critical importance of due process, regulatory accountability, and the protection of vested rights, signalling that the drive for increased production cannot circumvent established legal procedures. On the other, it injects a measure of uncertainty into the operational landscape, particularly for significant post-award investments made in reliance on regulatory approvals under the Petroleum Industry Act framework.

With an appeal filed and a stay of execution already in effect, the ultimate judicial determination remains pending. Regulators, operators, and prospective investors are observing closely, recognizing that the outcome will have profound implications for the interpretation and enforcement of the PIA, especially concerning the marginal field regime.

1. Eurafric Energy Ltd v Minister of Petroleum Resources, Petralon 54 Ltd & Ors Suit No FHC/L/CS/628/2021 (Federal High Court, Lagos Division, 29 January 2026)
2. Formerly a joint operator with Eurafric Energy Limited in furtherance of the Dawes Island field.
3. Nigerian Upstream Petroleum Regulatory Commission, 'Nigeria Concludes Marginal Field Bid Round 18 Years After' (NUPRC, 18 January 2023)
<https://www.nuprc.gov.ng/nigeria-concludes-marginal-field-bid-round-18-years-after/>
4. Eurafric Energy Limited v Nigerian Upstream Petroleum Regulatory Commission & 3 Ors [2026] FHC (Lagos Division) CS 628/2021, per Awogboro J (29 January 2026)
5. Petroleum Industry Act 2021 (Nigeria) s 4
6. Seyi John Salau, 'NUPRC solicits IPPG's support for implementation of PIA' BusinessDay NG (9 November 2021)
<https://businessday.ng/energy/oilandgas/article/nuprc-solicits-ippgs-support-for-implementation-of-pia/> accessed 12 February 2026.
7. Marginal field is an oil field left undeveloped for a period not less than ten (10) years since its discovery. They are mostly owned by international oil companies and farmed-out to smaller indigenous companies.
8. Petroleum Industry Act 2021 (Nigeria) s 94. (1)
9. Marginal field is an oil field left undeveloped for a period not less than ten (10) years since its discovery.
10. This licence grants the holder the right to explore for oil in a specific area.
11. These terms provide for certain allowances for new acreage granted after the commencement of the Act.
12. African Energy Chamber, 'AEC Condemns Dawes Island Ruling as Judicial Overreach Threatening Nigeria's Marginal Field Reform' (Energy Chamber, 11 February 2026)
<https://energychamber.org/pt/aec-condemns-dawes-island-ruling-as-judicial-overreach-threatening-nigerias-marginal-field-reform/> accessed 12 February 2026

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