Nigeria

Population[1]	195,874,740
Area (km^2)[1]	923,770
GDP per capita (USD)[1]	2,028.18
TPES (Mtoe)[2]	157.14
Energy intensity (toe/10^3 2010 USD)[2]	0.34
CO_2 emissions - energy ($MtCO_2$)[3]	85.99

Data from Orbis Crossborder Investment on energy projects and deals completed between 2015-2020[4]

Target industry	Number of projects and deals	Project/deal type	Project CapEx and deal value (million EUR)
Electric power generation, transmission and distribution	1 project 1 deal	new project joint venture deal	91m EUR total project CapEx Deal value n.a.
Extraction of natural gas and crude petroleum	2 projects 1 deal	new projects minority stake deal	1004m EUR total project CapEx 127m EUR total value of deal
Transport by pipeline	2 deals	minority stake deals	176m EUR total value of deals
Support activities for petroleum and natural gas extraction	2 deals	1 minority stake deal 1 joint venture deal	49m EUR total value of deals
Manufacture of refined petroleum products	1 deal	acquisition deal	4m EUR total value of deal

Sources:
1. The World Bank 2018
2. ©IEA, World energy balances, 2020, www.iea.org/data-and-statistics, webstore.iea.org/key-world-energy-statistics-2019
3. ©IEA 2020, CO_2 emissions from fuel combustion, www.iea.org/data-and-statistics, webstore.iea.org/key-world-energy-statistics-2019
4. Orbis Crossborder Investment (2020), Bureau Van Dijk. Nigeria is the destination country of the investment. Data represents the period 1 April 2015 - 1 April 2020. For more information see Annex II of this report.

Nigeria's overall risk level against the assessed areas is **moderate**.

Among the three risks assessed in EIRA, *unpredictable policy and regulatory change* and *breach of State obligations* are lower compared to *discrimination between foreign and domestic investors*.

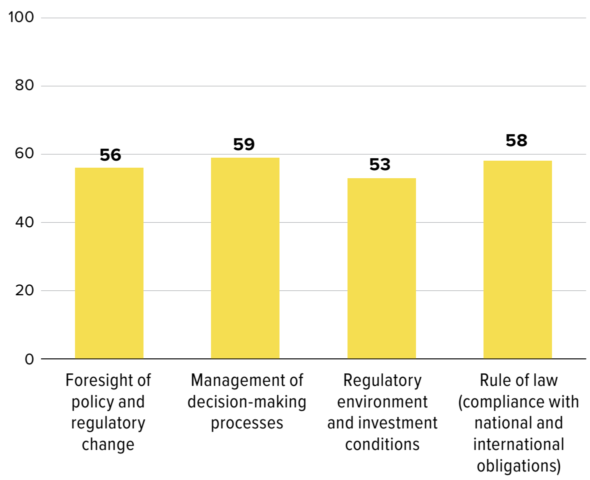
Nigeria's performance against EIRA's four indicators is moderate. It has maintained the scores from last year on the indicators *management of decision-making processes* (59) and *rule of law* (58). On *foresight of policy and regulatory change* its performance has improved by a point and now stands at 56. The score on *regulatory environment and investment conditions* is the same as last year, at 53.

On a more detailed level, Nigeria's overall sub-indicator performance is moderate. The highest-scoring sub-indicator is once again *management and settlement of investor-State disputes* at 75. Its score on *communication of vision and policies* has improved by one point and it now stands at 66. On *transparency* (63), *regulatory effectiveness* (57), *institutional governance* (56), *restrictions on FDI* (50), and *robustness of policy goals and commitments* (46) it has maintained the scores from last year. The lowest performance was again on the sub-indicator *respect for property rights* at 42.

While there are some improvements in Nigeria's performance compared to 2019, further steps must be taken to build on the work done. Particular attention should be given to strengthening the respect for property rights in the country.

RISK LEVEL

INDICATOR PERFORMANCE

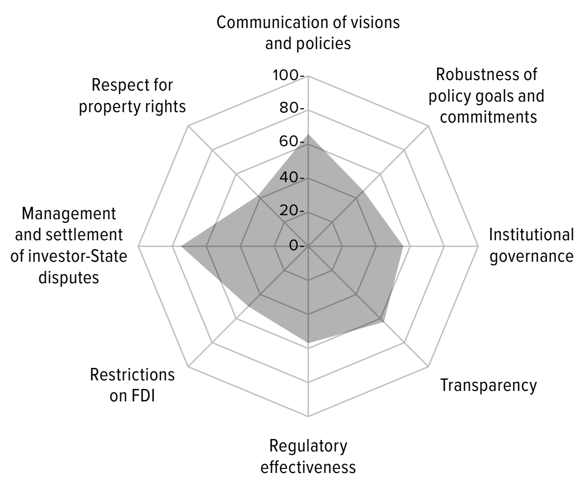


YEAR-ON-YEAR COMPARISON

RISK AREAS	2018	2019	2020
Unpredictable policy and regulatory change	43	43	42
Discrimination between foreign and domestic investors	44	43	43
Breach of State obligations	43	43	42

INDICATORS	2018	2019	2020
Foresight of policy and regulatory change	54	55	56
Management of decision-making processes	59	59	59
Regulatory environment and investment conditions	51	53	53
Rule of law	58	58	58

SUB-INDICATOR PERFORMANCE



INDICATOR 1

SCORE 56

Foresight of policy and regulatory change

QUICK FACTS

The main strategy documents of Nigeria are the National Energy Policy 2003 and the Nigeria Vision 20:2020.

The primary action plans for implementing the energy policies are the Energy Sector Strategy Plan 2010-2020 and the National Infrastructure Master Plan 2015.

STRENGTHS

In the last year, the Government introduced a number of policy and legislative measures to meet its national energy targets. On 4 November 2019, the President of the Federal Government of Nigeria assented to the Deep Offshore and Inland Basin Production Sharing Contract (Amendment) Act 2019. This Act seeks to increase the Government's share in the revenues generated from upstream oil and gas operations. The Nigerian National Petroleum Corporation (NNPC) is also looking to expand the domestic gas market by doubling the capacity of the Escravos-Lagos Pipeline System (ELPS) II from 1.1 billion standard cubic feet (bscf) of gas to 2.2 bscf. The Nigerian Gas Transportation Network Code of 2020 intends to give open and competitive access to gas transport infrastructure. The Gas Flaring (Prohibition and Punishment) Bill 2020 was introduced in the Parliament to meet the country's ultimate target of eliminating flared gas by 2020.

Lead ministries are assigned to implement energy priorities. In 2018, the Government established an inter-ministerial Committee to harmonise its approach on data collection and policy evaluation. The Committee will act as a focal point for MDAs of the Federal Government involved in information collection, authentication, and publication. The Nigerian National Petroleum Corporation and the Department of Petroleum Resources represent the energy sector in the Committee. In 2020, the President of the Federal Republic of Nigeria designated the Energy Commission of Nigeria (ECN) as the country's focal point on the Africa Renewable Energy Initiative (AREI).

AREAS FOR IMPROVEMENT

Some of the targets set in the action plans and policies will expire by the end of this year. For instance, the targets for increasing oil production, expanding the power sector infrastructure, boosting local refining, and becoming a net exporter of petroleum products by 2020 will expire soon. The Federal Government should prepare a timely and well-planned strategy for revising these targets.

An independent authority should monitor the energy policies and programmes. The Government is encouraged to give the public access to the progress reports of the MDAs. It should also establish compliance and enforcement mechanisms to support the implementation of legislation and regulatory measures.

INDICATOR 2

SCORE 59

Management of decision-making processes

QUICK FACTS

The Presidential Enabling Business Environment Council (PEBEC) was established in July 2016 to remove bureaucratic constraints to doing business in Nigeria.

Nigeria enacted the Freedom of Information Act in 2011 to make public records and information available.

STRENGTHS

In 2019, PEBEC worked in collaboration with MDAs and other public and private sector partners to improve the Nigerian business environment. On 4 February 2020, PEBEC launched its National Action Plan 5.0. The Plan seeks to bring various reforms, including the automation of the land registration process in the Lagos and Kano States. It will reduce the number of inspections in construction by implementing a system of joint inspections by related agencies in Lagos. Moreover, PEBEC has launched a new reporting web application in Lagos which gives the public an opportunity to interact with the MDAs on service delivery and conflict resolution.

In 2019, the Federal Government launched the Beneficial Ownership Register for extractive companies. The register demonstrates Nigeria's commitments to a more transparent and accountable governance of the extractive sector. On 30 July 2019, the Independent Corrupt Practices and Other Related Offences Commission inaugurated the ECN chapter of the Anti-Corruption and Transparency Unit. Stakeholder engagement on critical regulatory issues, particularly by the Nigerian Energy Regulatory Commission (NERC), received an impetus. NERC conducted public consultation and hearings on various topics such as the extraordinary tariff review of the Multi-Year Tariff Order of 2015, on the framework for the collection of competition transition charges from the eligible consumers, on the capping of estimated billing, and on setting the electricity distribution franchising regulations.

AREAS FOR IMPROVEMENT

There can be better coordination between MDAs on cross-sectoral issues. Currently, there are multiple bodies engaged in framing and implementing energy policies. This multi-layered system can give rise to contradictory strategies and overlapping actions. It can also stall legislation, such as the Petroleum Industry Governance Bill, that are critical for attracting investment in the energy sector. Active dialogue at the national and sub-national level is required to ensure swift and consistent decisions.

The Federal Government should make efforts to intensify stakeholder consultation at different stages of the policy-making process. Instead of ad hoc discussions, the methods and timelines of public participation should be decided at an early stage and made publically known. An institutionalised consultation mechanism will increase investor confidence and promote cooperation.

INDICATOR 3

SCORE **53**

Regulatory environment and investment conditions

QUICK FACTS

NERC regulates elelctricty generation, transmission, distribution, and trading.

Foreign investments are protected by the Nigerian Investment Promotion Commission Act 1995.

STRENGTHS

NERC is undertaking reforms to improve the electricity industry's performance. On 31 March 2020, it issued an Order on the need to raise end-user tariffs charged by DisCos and increase the rates paid by the Transmission Company of Nigeria to GenCos. The tariff hike is intended to make up for the revenue shortfalls of DisCos resulting from the growing gap in generation, distribution and end-user costs. DisCos must submit to NERC a detailed cost recovery plans by June 2021. NERC has repealed the Regulation on Estimated Billing Methodology of 2012, and capped the billing amount for unmetered consumers, to speed up metering by the DisCos and phase out the estimated billing practice.

The VAT (Modification Order) of 2020 expands the list of exempted goods and services. There are fourteen items exempted under the downstream gas utilisation category. Fifteen items listed as petroleum products including kerosene, natural gas, and other liquefied petroleum gases are also exempt. Eight renewable energy equipment types are in the list of exempt items, including solar-powered, wind-powered or Solar DC generators and photosensitive semiconductor devices. In 2019, the Nigerian Content Development and Enforcement Bill was introduced in the National Assembly. The Bill broadens the local content requirements for the oil and gas sector, and it implements a similar regime for the ICT, power, solid minerals, and construction sectors.

AREAS FOR IMPROVEMENT

With the postponement of the electricity tariff increase, there is a need for collaborative efforts at proactive metering of customers, and ultimately an increase in the tariff of all metered customers through a payment system based on actual electricity usage. This approach will give better revenue assurance to the industry. It is also worth remembering that while the tariff hike is imperative, it is likely to increase the burden on end-users. The Government should, therefore, create more public awareness on the use of energy-saving technologies and their role in reducing energy consumption.

The Deep Offshore and Inland Basin Production Sharing Contract (Amendment) Act of 2019 imposes additional royalties in upstream oil and gas operations. However, introducing an additional price-based royalty and increasing water depth-based royalties on top of the other taxes, fees, and levies may reduce the sector's competitiveness. The Government should revise the fiscal regime only to the extent that planned oil and gas investments remain financially viable, and there is minimal risk of declining production.

INDICATOR 4

SCORE **58**

Rule of law

QUICK FACTS

Nigeria ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States in 1965.

Nigeria is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

STRENGTHS

The Federal Government is taking steps to encourage a pro-arbitration legislative regime. The Arbitration and Conciliation Act (Repeal and Enactment) Bill passed its First Reading in the National Assembly on 11 July 2019. Once enacted, the Bill will reduce the scope for courts to review arbitral awards, thereby facilitating swifter enforcement of awards. It also introduces "Third Party Funding" (TPF) in arbitration proceedings by allowing its inclusion in the costs of arbitration. On 7 May 2020, NERC approved the reappointment of a 12-member Dispute Resolution Panel for the Nigerian Electricity Supply Industry. The functions of the Panel include the arbitration and settlement of disputes between market participants such as the system operator, the market operator, and other licensees engaged in electricity trading.

During the last year, there were no adverse changes made to the legislative framework on the protection of property rights. Per the NIPC Act, nationalisation or expropriation of foreign investment can only be in the national interest or for a public purpose. Any person who owns, either wholly or in part, capital of any enterprise cannot be compelled by law to surrender his interest in the capital to any other person. The law requires the payment of fair and adequate compensation in the case of any compulsory acquisition. Any person aggrieved by the expropriation decision or the amount of compensation may approach the national courts for redress.

AREAS FOR IMPROVEMENT

While the progressive approach taken by the Government in the Arbitration and Conciliation Act (Repeal and Re-Enactment) Bill is commendable, there are some aspects of TPF that need more attention. Since the legitimacy of TPF is implicit, it is unlikely to prevail over the conflicting common law rules against champerty and maintenance. The Bill's current text also gives rise to the likelihood that a party may challenge the validity of its opponent's funding or an award obtained through the funding party. TPF agreements must be given explicit legitimacy so that their scope and application is clear. There should be defined rules regulating the enforcement of such contracts, and a more flexible approach taken in the use of historical common law concepts.

In domestic law, expropriation refers only to physical property. National legislation may include provisions granting protection from expropriation to intangible property such as equity, shares, and IP.

IMPLEMENTATION STATUS

Nigeria

PROPOSED IN	EIRA AREAS FOR IMPROVEMENT	IMPLEMENTATION STATUS AS OF 1 APRIL 2020
Indicator 1		
2018	Carry out a rigorous impact assessment of the existing laws and policies.	**Pending**
	Set key performance indicators for the energy sector.	**Pending**
2020	Regularly publish the policy monitoring and evaluation reports.	**Work ongoing.** In 2018, the Government established an inter-ministerial Committee to harmonise data collection and evaluation of the country's objectives.
	Revise the policy targets that are expiring in 2020, such as for increasing oil production, expanding the power sector infrastructure, boosting local refining, and becoming a net exporter of petroleum products.	**Improvement suggested in 2020.** Status will be updated in 2021.
Indicator 2		
2018	Conduct regular public consultations and introduce legal provisions which require public consultation by MDAs on draft laws and regulations.	**Work ongoing.** The Nigerian Energy Regulatory Commission (NERC) conducted public consultation and hearings on various topics such as the extraordinary tariff review of the Multi-Year Tariff Order of 2015, on the framework for the collection of Competition Transition Charge from the eligible consumers, on the capping of estimated billing, and on setting the electricity distribution franchising regulations.
	Promote better coordination among MDAs on the implementation of the national energy policies and plans.	**Work ongoing.** The first Energy and Climate Change Summit was held in 2018 as a step towards bringing together the relevant stakeholders and fostering constructive discussions.
Indicator 3		
2018	Define the roles and responsibilities of the different regulatory authorities.	**Pending**
	Create a comprehensive legal framework on local content across sectors. Ensure that content targets are based on a realistic estimation of available domestic human resources and technical expertise.	**Work ongoing.** In 2019, the Nigerian Content Development and Enforcement Bill was introduced in the National Assembly for discussion. The Bill seeks to broaden the existing local content requirements for the oil and gas sector and it implements a similar regime for the ICT, power, solid minerals, and construction sectors.
2020	Apply cost-reflective electricity tariffs at the earliest. Take collaborative and proactive measures to ensure metering of all electricity customers.	**Improvement suggested in 2020.** Status will be updated in 2021.
	Reconsider the newly introduced additional price-based royalty and increased water depth-based royalties.	**Improvement suggested in 2020.** Status will be updated in 2021.
Indicator 4		
2018	Establish a foreign investment ombudsman authority to settle conflicts arising in the course of energy projects.	**Pending**
	Grant broader protection against expropriation to intangible property such as equity, shares, and IP rights.	**Pending**
2020	Define clear rules to regulate the use and enforcement of Third Party Funding agreements.	**Improvement suggested in 2020.** Status will be updated in 2021.