



Major Oil Marketers  
Association of Nigeria

# NEWSLETTER

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*Not for sale*

# THE WEEKLY POST

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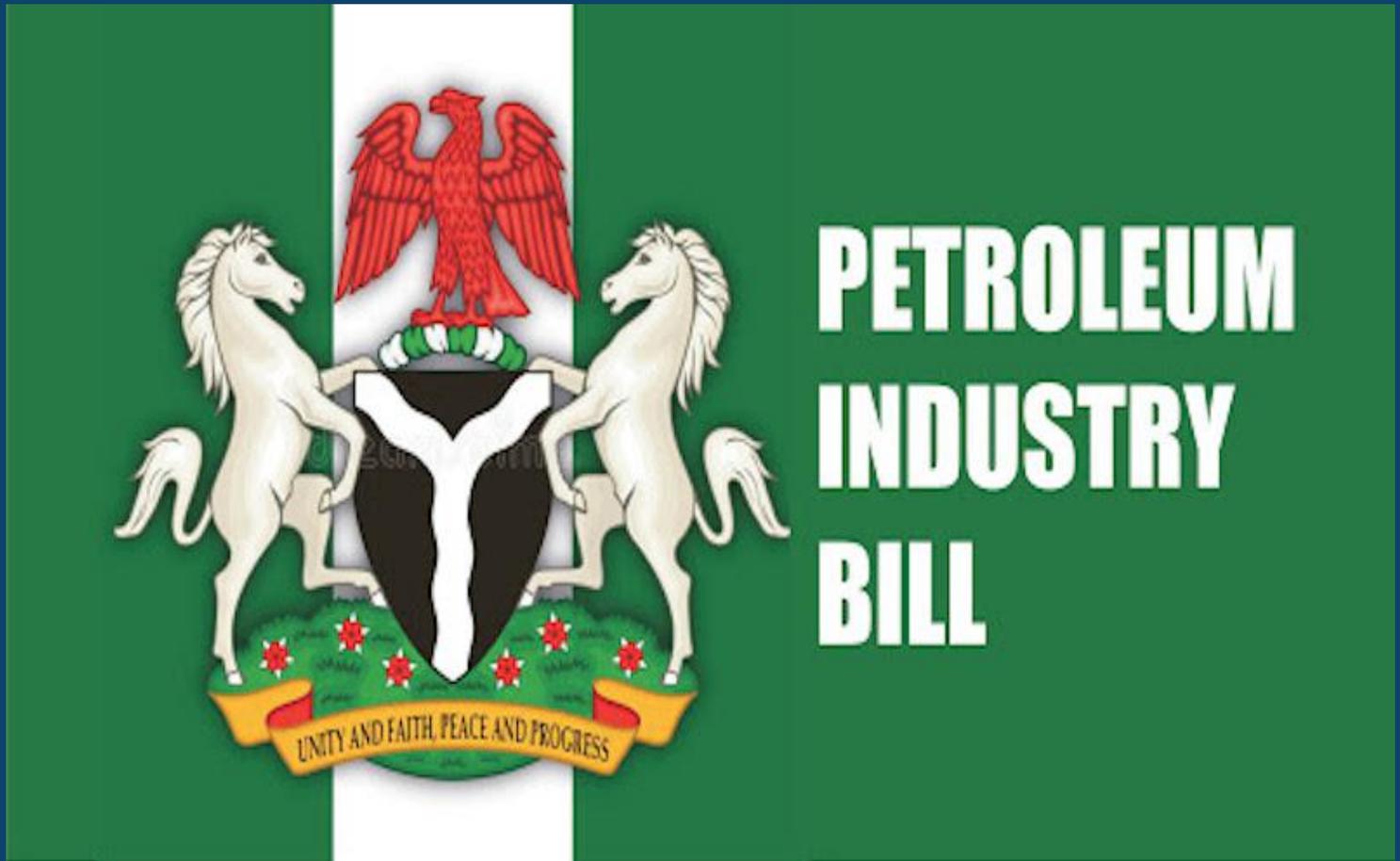


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MOMAN  
UPDATE

# PETROLEUM INDUSTRY BILL (2020): IMPLICATIONS FOR THE DOWNSTREAM OIL & GAS SECTOR

By *Kenneth Erikume, Partner, Tax, PwC &  
Olayemi Williams, Senior Manager, Tax, PwC*



## Background

The Petroleum Industry bill 2020 (PIB 2020) was recently submitted to the National Assembly and passed by the Senate. The Bill, which has been in the pipeline since 2000, and was originally submitted to the National Assembly in 2008, is expected to bring major reforms into the Oil and Gas industry in Nigeria. These are some of the impact the PIB 2020 will have on the downstream sub-sectors of the Oil and Gas industry.

### 1. Governance & Regulatory Implications

- Establishment of the Nigerian Midstream and Downstream Petroleum Regulatory Authority (“the Authority”): The Authority will be set up to regulate and monitor the downstream petroleum operations, from a technical and commercial perspective.



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It will also ensure efficient, safe, effective and sustainable infrastructural development of the downstream sub-sectors; and promote healthy, safe, efficient and effective conduct of downstream petroleum operations in an environmentally acceptable and sustainable manner. This includes regulating the commercial operations such as determining the appropriate tariff methodology, setting cost benchmarks and granting, reissuing, terminating licenses, permits and authorisations.

The establishment of the Authority would likely result in the consolidation of the functions of the Department of Petroleum Resources (DPR), Petroleum Product Pricing Regulatory Agency (PPPRA) and the Petroleum Equalisation Fund (PEF) into the Authority. Companies operating in the downstream sub-sectors will need to get familiar with the new governance structure and regulatory requirements to ensure compliance and avoid situations that could lead to penalties or disruption in business operations.

- Establishment of NNPC Limited (“the company”): The PIB proposes the incorporation of the company which will succeed the existing NNPC within six months from the commencement of the Act. The company is to acquire all assets and liabilities of the NNPC and will operate as a company wholly owned by the government at incorporation. Shares of the company can be sold and transferred only after government approval, by way of security or at a fair market value, and are subject to an open, transparent and competitive bidding process. The objectives of NNPC limited include carrying out petroleum operations on a commercial basis, promoting the domestic use of natural gas through development and operation of large-scale gas utilization industries etc.

The establishment of a commercially focused NNPC Limited would result in a national oil company comparable with the model of other countries. NNPC would compete commercially across the oil and gas value chain (from upstream to downstream). However, since the fiscal provisions of the PIB 2020 also prescribes that companies involved in more than one stream (from upstream, midstream and downstream) must register and use a separate company for each stream, the new NNPC Limited would likely continue to maintain the refineries and downstream businesses in separate companies. The objective of a commercial NNPC Limited may not be fully achieved as the PIB 2020 still makes provision for NNPC Limited to act as “supplier of last resort” for security reasons in relation to all petroleum products generally. This does not extinguish the provision whereby upon request by the Federal Government, NNPC Limited may act as supplier of last resort to ensure adequate supply and distribution of PMS for a period not exceeding 6 months. The associated costs in situations where NNPC Limited acts as supplier of last resort would be borne by the Federal Government. This means that the PIB 2020 does not authoritatively deregulate the downstream sector as NNPC may continue to be the sole importer of PMS if price is considered to be an issue of national security. In such a case, the subsidised costs of PMS could continue to be borne by the Federal Government.



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Transition: The provisions shall apply from the 1st day of January after the effective date of the Act.

- **Funding of the Authority:** Apart from other sources of income, the main source of fund of the Authority is 0.5% of the wholesale price of petroleum products sold in Nigeria, which shall be collected from wholesale customers.
- **Midstream Gas Infrastructure Fund:** Although this fund is established to fund the Federal Government's equity participation investments in gas projects, the main source of income of the fund would be 0.5% of the wholesale price of petroleum products and natural gas sold in Nigeria, which shall be collected from wholesale customers. This levy will be in addition to the 0.5% collected to fund the Authority. The establishment of this fund demonstrates the governments drive for investment in the gas value chain through public-private partnerships. However, it is important to note that the imposition of a total of 1% levy on companies operating within this sector may have adverse effects due to cascading impact of levies on the price of products especially PMS. These costs may be factored into the price of the product and would lead to higher cost of product for consumers.

## 2. Administrative Implications

- **License Application and Renewal:** The PIB 2020 gives the Authority, the right to grant, renew, modify or extend licenses or permits for downstream activities, except for refineries license which can only be issued by the Minister of Petroleum, as recommended by the Authority. The bill also stipulates in detail, criteria for granting of licenses for downstream petroleum, petroleum liquids and gas operations.

Operators performing the following downstream gas activities are expected to apply for and obtain a license from the Authority in order to commence or continue operation. The Bill gives a 24-month timeline to existing License and Permit holders engaged in downstream petroleum operation prior to the effective date to apply for the respective licenses:

- Processing of natural gas
- Storage of natural gas
- Operation of gas transportation pipeline
- Bulk transportation of natural gas by rail or other means of transportation
- Operation of gas transport and distribution network
- Operation of facilities for import or export of natural gas
- Wholesale and retail gas supply
- Operation of petrochemical or fertilizer plants
- Etc.

Additional activities not stipulated in the Act, may be prescribed by the Authority to be operated only after licenses or permits have been obtained. Failure to comply with these licensing



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requirements attracts seizure and disposal of the facilities, equipment or materials being used for the operation, penalty of 1-year imprisonment or a fine to be prescribed by a regulation to the PIB in the case of a license default, or penalty of 6-month imprisonment or a fine to be prescribed by a regulation to the PIB in the case of a permit default. Similar licensing requirements, regulations and penalties are equally provided for downstream petroleum liquids operations.

- **Approval of License Application:** The Authority is expected to consider the information presented in an application and inform the applicant of its decision within 90 days of the application. Where the application is approved, a notice is published to this effect, in a manner to be prescribed in regulations issued by the Authority. Where the application is declined, the Authority is to inform the applicant of its refusal of the application, reasons for the refusal and may state a reasonable time within which an applicant may make further applications. An applicant who is not satisfied with the reasons given by the Authority has the right to apply to the Federal High Court for a judicial review.
- **Compensation for Acquisition of Land:** The PIB provides for the issuance of a license or permit as compensation for acquiring land for downstream petroleum activities. The bill also allows the Governor of the state in which the land is acquired, to issue a certificate of occupancy in accordance with the Land Use Act and other existing state laws within the state.
- **Assignment or Transfer of License:** The PIB prohibits transfer or assignment of license or permits or any right/obligation arising from the license or permit, by holders of license, without the prior written consent of the Authority. A license holder is expected to make an application to the Authority for assignment or transfer of its license. Approval or refusal of the application must be communicated by the Authority, within a timeframe to be prescribed by regulations to the PIB, failure of which the application will be deemed approved.
- **Pricing Framework & Methodology:** The PIB provides an extensive framework and methodology for pricing of transportation, distribution and processing of petroleum and gas products. The bill allows credit worthy operators willing to make long term ship-or-pay agreements to be given preferential tariff plans. Operators who are engaged in the sale of petroleum products to retail customers or who have access to third parties, must display at their offices, a current copy of the tariffs applicable to their services. In addition, operators are also prohibited from passing the cost of any fine or penalty incurred to their customers. The tariffs shall not discriminate between customers with similar characteristics and are to be determined in US dollars or other foreign currency. They may also be paid in the equivalent naira value at the open market rate published by the Central Bank of Nigeria. Tariffs charged by licensees for the use of any licensed facility or infrastructure will be set according to one or more tariff methodologies adopted by the Authority for a particular set of license. Stakeholder consultations will also be conducted with interested parties in the subject matter of the proposed tariff methodology prior to establishing a tariff methodology.



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- Regulation of the gas and petroleum liquids value chain: The PIB 2020 provides additional extensive regulation on the administration of downstream Gas and Petroleum Liquids Operations. This covers grant of right of way and surface rights for the laying, operation and maintenance of pipelines; powers of a transport network operator; powers of the Authority to issue detailed regulations on the downstream gas operations from time to time, powers of the authority to mediate in disputes, consumer protection etc.
- Competition and Market Regulation: The PIB provides an extensive framework for healthy competition and consumer protection within the market in line with the provisions of the Federal Competition and Consumer Protection Act. The Bill gives power to the Authority to administer, monitor and ensure compliance with the provisions of the Act and any competition and market regulation. The Authority is also charged with the responsibility of preventing anti-competitive behaviour within the downstream market
- The new licensing requirement for major gas and petroleum liquids operations indicates that the industry will continue to be heavily regulated. Hopefully, the involvement of stakeholders in contributing to Regulations in a structured manner, will ensure that Regulations favour formal players in the sector, improves service quality and ease of doing business. The government needs to ensure that the process of obtaining licenses is seamless, in order to encourage compliance.
- The pricing framework and the competition & market regulations both provide robust guidelines towards achieving a more stable and predictable market within the downstream operations

### 3. Host Communities Development

- Incorporation of Host Communities Development Trust (“the Trust”): Apart from upstream E&P companies that have to contribute to the fund, companies with midstream operations licenses (which includes leasing and operation of tank farms and storage facilities, among other things) are also required to contribute to the fund as long as their area of operation is located in a community. This would impact on downstream operators that have midstream activities. The Trust must be set up for the benefit of their host communities within the applicable timeframe as stipulated in the PIB 2020. The PIB requires a settlor to make annual contributions equal to 2.5% (3% and other rates were also being considered) of its actual operating expense incurred in the preceding year, on all petroleum operations that affects the host community. Failure to comply with these requirements may result in revocation of the settlor’s licenses.
- Host Community Needs Assessment: A settlor is expected to conduct a needs assessment of its host community after the grant of its license. The assessment is to determine the specific needs of each host community, to identify the effect of the proposed operations on the host community and provide a strategy for addressing the needs and effects identified.



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- **Tax Exemption of funds of the Trust:** All funds of the Host Communities Development Trust are tax exempt.
- **Tax Deductibility of contributions made to the Trust:** Contributions made by a settlor to the Trust are deductible for tax purpose in line with the PIB. Companies are also allowed to deduct from their annual contribution, any cost incurred on repairs of damaged facilities as a result of vandalism, sabotage and civil unrest
- **The inclusion of midstream operations in the scope of the contribution would have unintended consequences upon downstream companies that have some midstream**
- **operations (e.g. tank farms or lubricant plants). All midstream operations should have been excluded from the scope. If the law is implemented in its current version, there will be significant inflationary impact on the final cost of products and related sectors such as transportation.**

#### 4. Fiscal Implications

- **Downstream operators to be liable to Companies Income Tax (CIT):** All companies within the downstream sectors are to be assessed to tax under the Companies Income Tax Act (CITA). Where a company carries out upstream, midstream and downstream operations, the income tax on each operation should be determined separately. However, a company carrying out wholesale gas or petroleum liquids supply, may consolidate those operations with its upstream operations. Companies who intend to operate in more than one stream are required to incorporate separate companies for each stream. This therefore means that some players in the downstream sector who have operations that are captured under the definition of midstream may need to set up separate companies for that purposes. For example, downstream operators with tank farm operations or lubricant plants may need to restructure if this is not clarified.
- **Eligibility of Companies for the Gas Utilization Incentive (GUI):** The PIB 2020 expands the eligibility to enjoy the GUI as stipulated in Section 39 of CITA to midstream petroleum operations and large scale gas utilization industries such as gas-to-liquid plants, petrochemical industries, fertilizer plants, mini-LNG plants, power plants and other industries defined in regulations. These companies alongside downstream gas operators (as stipulated by CITA), can now enjoy the incentives as defined in CITA.
- **Taxation of Natural Gas:** The PIB provides that Natural gas transferred or disposed from upstream to midstream or downstream operations, natural gas liquids and liquid petroleum gases are to be taxable under CITA.
- **Tax deductibility of Acquisition cost:** The PIB provides for the tax deductibility of acquisition cost of petroleum rights, through annual allowance over a 10-year period with a retention value of 1%.



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# MOMAN UPDATE



## PwC Comments

- The requirement for companies to incorporate separate entities for different streams of operations may place additional administrative burden on companies. This may effectively deter companies from expanding their operations into the different streams.
- The PIB's provision for companies eligible to enjoy the GUI conflicts the provisions of CITA. It is recommended that CITA is amended to capture the new companies eligible in line with the PIB.
- There is no clarity about what constitutes "acquisition cost of petroleum rights" in the PIB. This creates ambiguity on whether licenses obtained for downstream operations are eligible for the tax deduction.

## Conclusion

The PIB 2020 provides a robust framework for the regulation of the downstream sectors of the Oil and Gas industry. Companies operating within this sector are expected to examine their current operations in line with the provisions of the PIB and begin to put structures in place for compliance to the requirements of the Bill.



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# Industry WATCH

## MACROECONOMIC INDICES

### INFLATION

	JAN 2021	FEB 2021	MAR 2021	APR 2021	MAY 2021	JUN 2021
Year on Year % Change	16.47%	17.33%	18.17%	18.12%	17.93%	17.75%
12 Month % Change	13.62%	14.05%	14.55%	15.04%	15.50%	15.93%
Month on Month % Change	1.49%	1.54%	1.55%	0.97%	0.01%	1.06%

### CRUDE OIL PRICES

	JUL 19	JUL 20	JUL 21	JUL 22	JUL 23
Brent Crude (USD/bbl)	68.62	69.35	72.23	73.79	74.10
WTI Crude (USD/bbl)	66.42	67.42	70.30	71.91	72.07

### EQUITIES MARKET UPDATE

SECTOR	JUL 16	JUL 23	WEEKLY CHANGE	WTD	MTD	QTD	YTD
NSE 30	1,617.76	1,649.09	31.33	1.94	3.40%	3.40%	0.55%
Consumer Goods	593.93	597.32	3.39	0.57	-0.59%	-0.59%	4.18%
Oil & Gas	337.61	363.02	25.41	7.53	15.95%	15.95%	60.49%
Banking	383.30	384.99	1.69	0.44	5.05%	5.05%	-2.04%
Industrial	1,923.73	2,001.80	78.07	4.06	6.04%	6.04%	-2.46%
Insurance	201.51	200.02	-1.49	-0.74	-1.87%	-1.87%	5.55%



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# Industry WATCH



## FOREX RATES - CBN I/E WINDOW

=N=	JUL 19	JUL 20	JUL 21	JUL 22	JUL 23
<b>USD</b>	<b>407.00-412.00</b>	<b>407.00-412.00</b>	<b>407.00-412.00</b>	<b>407.00-412.00</b>	<b>407.00-412.00</b>
<b>INTERBANK OFFICIAL CLOSING FX RATE (\$/=N=)</b>	<b>411.33</b>	<b>-</b>	<b>-</b>	<b>411.11</b>	<b>411.28</b>

Source: CBN  
\*Year - 2021



## FOREX RATES - CBN INTERBANK RATE (BID/OFFER)

=N=	JUL 19	JUL 20	JUL 21	JUL 22	JUL 23
<b>USD</b>	<b>411.00/412.00</b>	<b>411.00/412.00</b>	<b>411.00/412.00</b>	<b>411.00/412.00</b>	<b>411.00/412.00</b>
<b>MARKET CLOSING FX RATE (\$/=N=)</b>	<b>410.00</b>	<b>410.00</b>	<b>410.00</b>	<b>410.00</b>	<b>410.00</b>

Source: CBN  
\*Year - 2021



## FOREX RATES - PARALLEL MARKET

=N=	JUL 19	JUL 20	JUL 21	JUL 22	JUL 23
<b>USD</b>	<b>495 / 503</b>	<b>495 / 503</b>	<b>495 / 503</b>	<b>498 / 503</b>	<b>500 / 504</b>
<b>GBP</b>	<b>698 / 705</b>	<b>698 / 705</b>	<b>698 / 705</b>	<b>695 / 703</b>	<b>698 / 705</b>
<b>EURO</b>	<b>585 / 592</b>	<b>585 / 592</b>	<b>585 / 592</b>	<b>585 / 590</b>	<b>588 / 595</b>

Source: abokiFX  
\*Year - 2021



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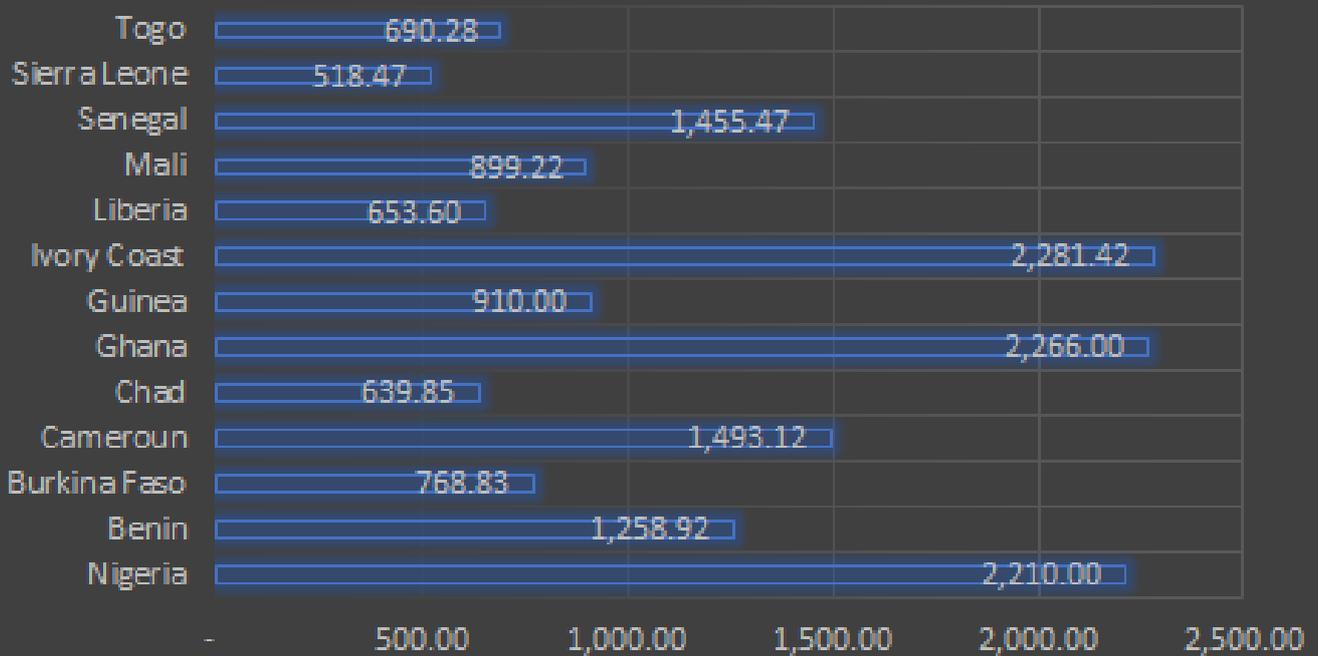
# Industry WATCH



## WEST AFRICA FOCUS



### GDP PER CAPITA (\$)



Source: [globalpetrolprices.com](http://globalpetrolprices.com)  
\*Year - 2021



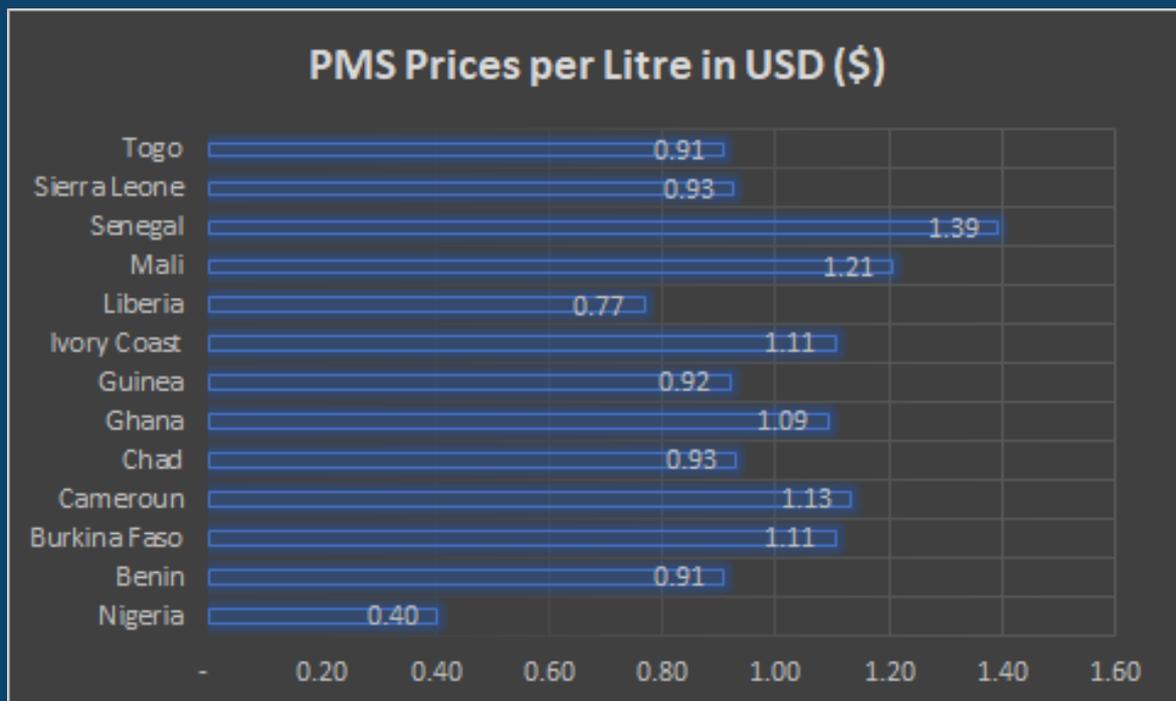
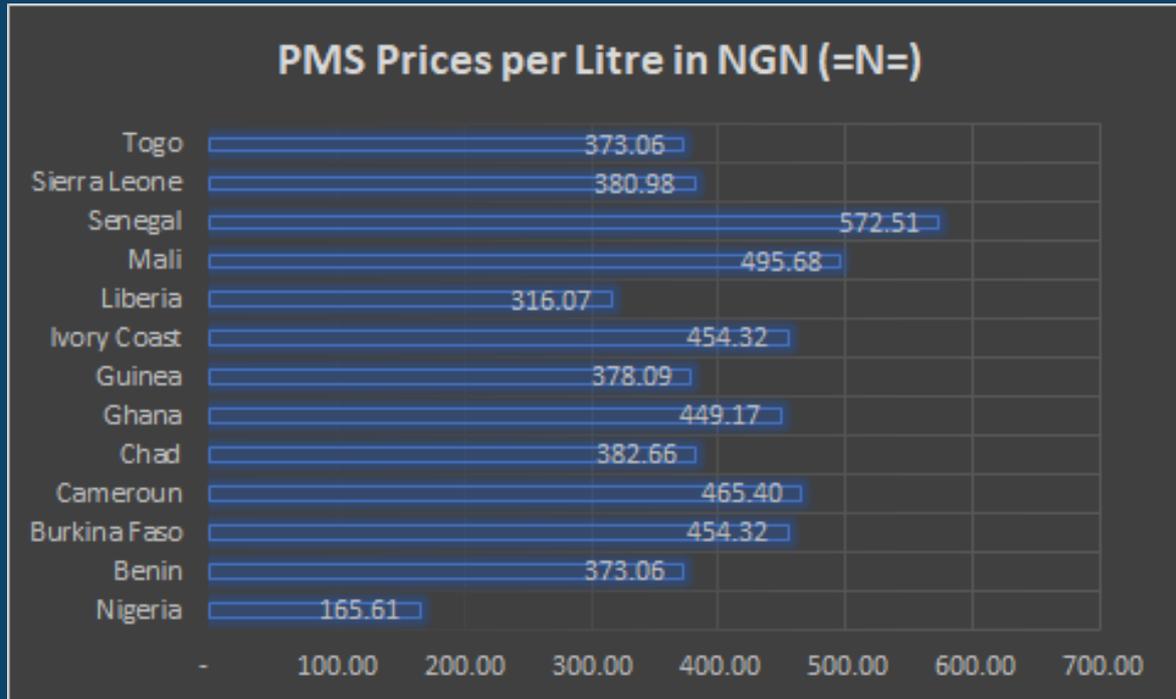
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# Industry WATCH

## GASOLINE PRICES

**\*Average gasoline prices around the Africa: =N=489.33 or \$1.19 USD as at 19 JUL. 2021**

### WEST AFRICA (PMS)



Source: [globalpetrolprices.com](http://globalpetrolprices.com)  
\*Year - 2021



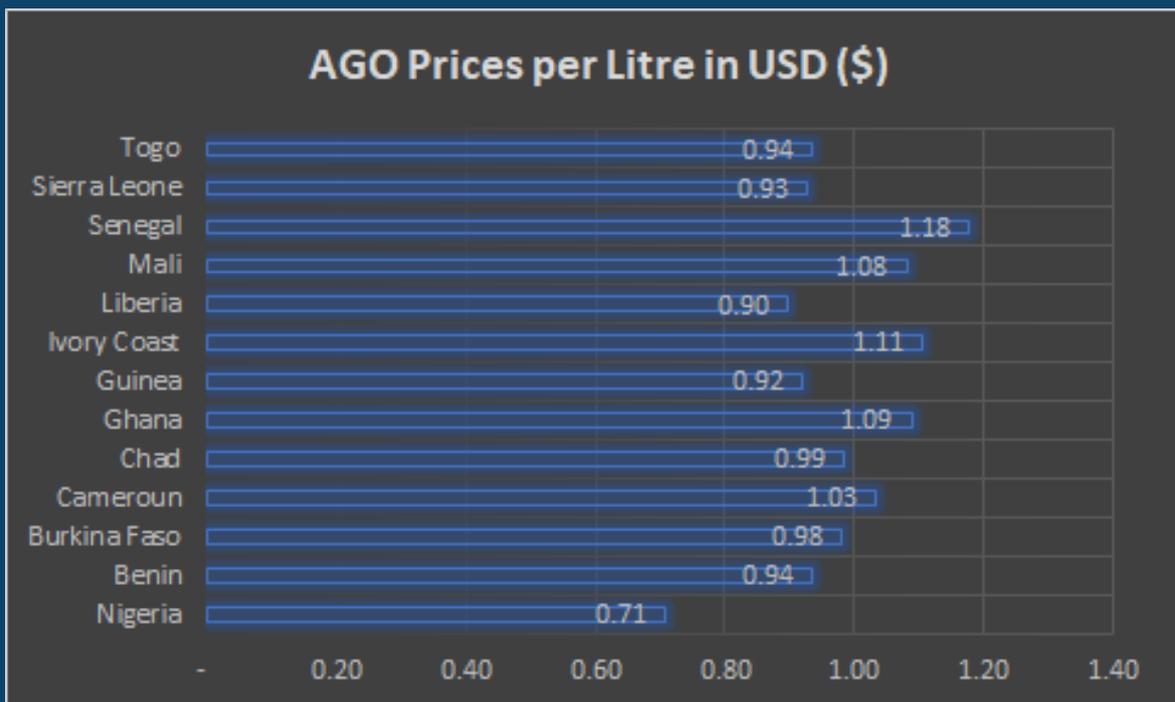
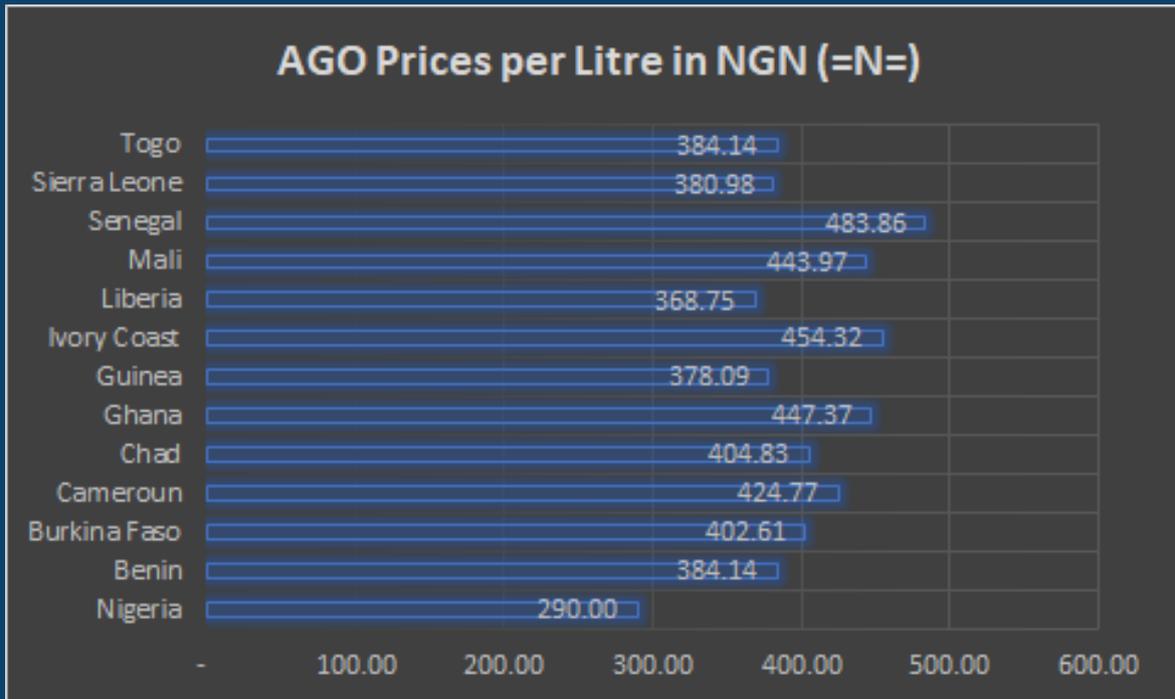
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# Industry WATCH



## DIESEL PRICES

**\*Average diesel prices around the Africa: =N=434.88 or \$1.06 USD as at 19 JUL. 2021  
WEST AFRICA (AGO)**



Source: [globalpetrolprices.com](http://globalpetrolprices.com)  
\*Year - 2021



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# Industry WATCH

## PLATTS

### PMS

\$ (USD)	JUL 19	JUL 20	JUL 21	JUL 22	JUL 23	JUN. AVERAGE
FOB ROTTERDAM	673.000	674.250	702.500	717.500	732.750	688.352
FOB MED	678.250	676.250	700.750	714.250	722.250	680.148
CIFNWE	688.500	687.000	715.250	730.250	743.000	699.500

### AGO

\$ (USD)	JUL 19	JUL 20	JUL 21	JUL 22	JUL 23	JUN. AVERAGE
CIFNWE	557.000	557.250	578.750	587.250	593.750	589.920

### ATK

\$ (USD)	JUL 19	JUL 20	JUL 21	JUL 22	JUL 23	JUN. AVERAGE
CIFNWE	587.000	587.500	610.500	619.750	626.000	611.182

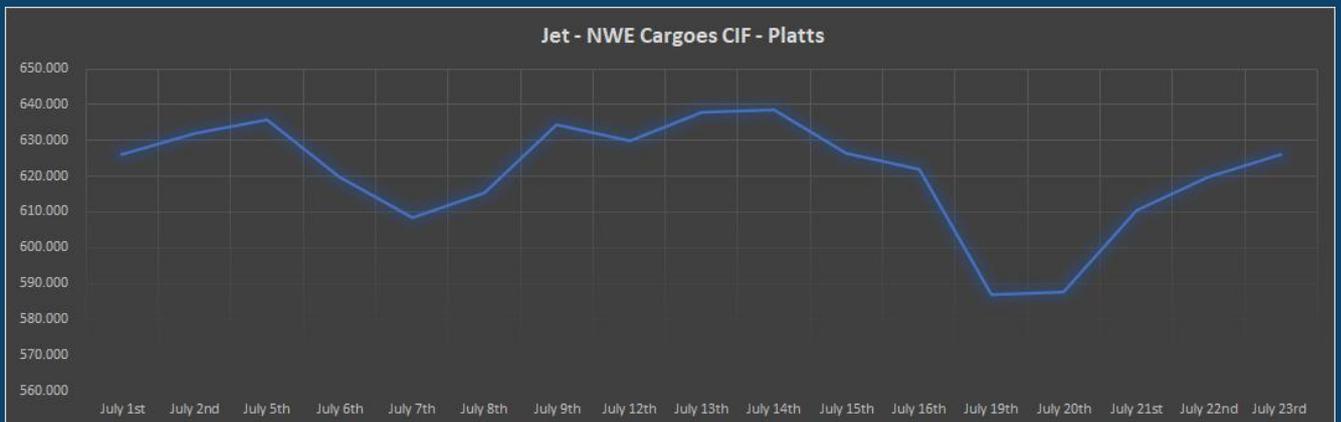
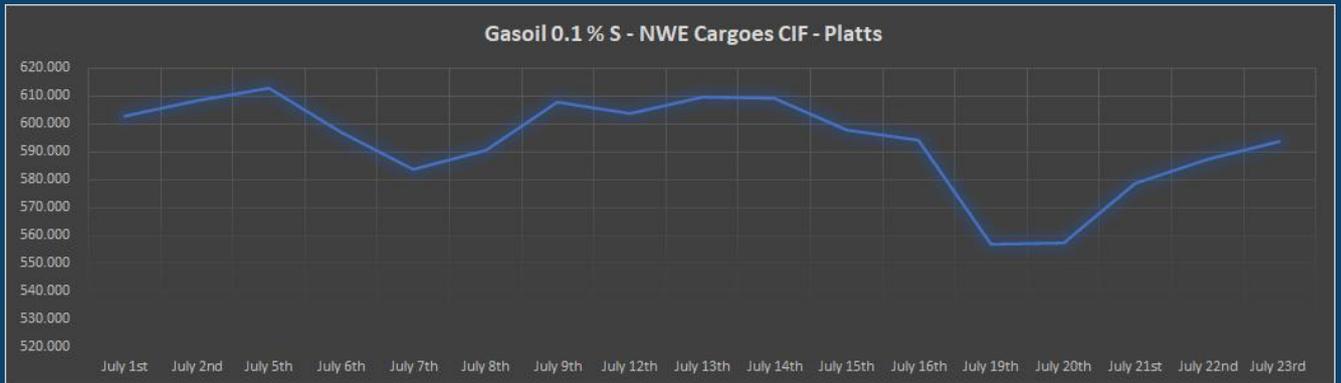
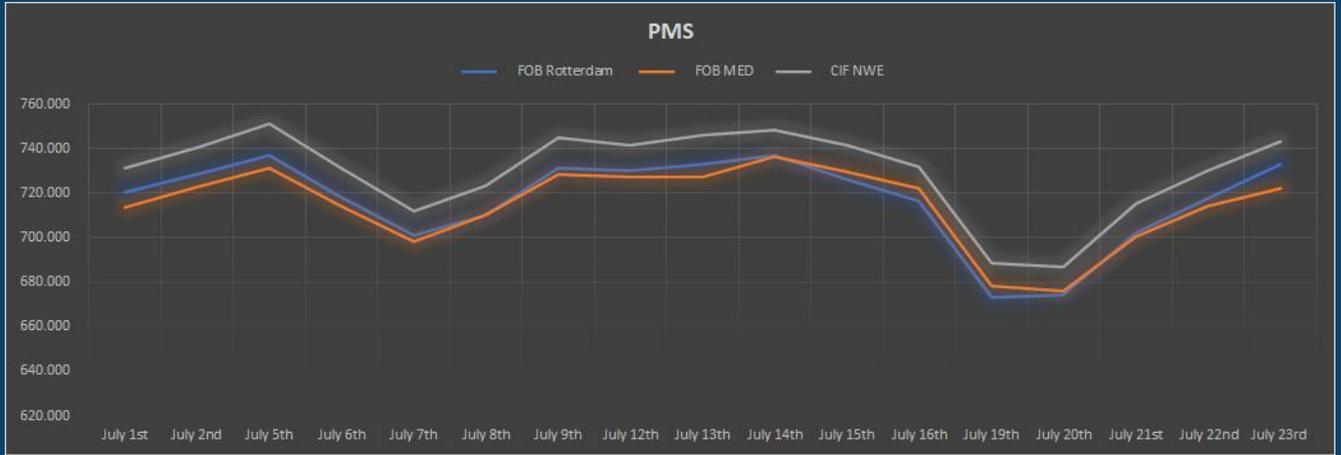
\$/BBL	JUL 19	JUL 20	JUL 21	JUL 22	JUL 23
ICE GASOIL (USD/MT)	558.500	559.000	587.500	599.750	599.000



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Source: S & P Global Platts  
\*Year - 2021



Source: S & P Global Platts  
\*Year - 2021



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EX-DEPOT PRICES

### LAGOS, NIGERIA

=N=/Litre	JUL 23
PMS	149.00-150.00
AGO	273.50-276.50

\*Year - 2021

### PORT-HARCOURT, NIGERIA

=N=/Litre	JUL 23
PMS	152.00
AGO	268.00-280.00

\*Year - 2021



### DELTA, NIGERIA

=N=/Litre	JUL 23
PMS	149.50-151.50
AGO	275.00-278.00

\*Year - 2021

### CALABAR, NIGERIA

=N=/Litre	JUL 23
PMS	150.50
AGO	280.00

\*Year - 2021



# COVID-19 CASE UPDATE

## 213 NEW CASES CONFIRMED

26<sup>th</sup> July, 2021

**TOTAL CONFIRMED 171,324**

**DISCHARGED 164,798**

**DEATHS 2,134**

NCDC Toll-free Number: **Dial 6232**

Twitter/Facebook: @NCDCgov/ COVID19.NCDC.GOV.NG



**PREVENT THE SPREAD OF COVID-19**

26-07-2021

#TakeResponsibility #COVID19Nigeria

S/N	STATE	Number of Cases
1	Lagos	62,312
2	FCT	19,944
3	Kaduna	9,127
4	Plateau	9,082
5	Rivers	7,534
6	Oyo	6,978
7	Edo	4,917
8	Ogun	4,737
9	Kano	4,008
10	Ondo	3,524
11	Kwara	3,162
12	Delta	2,663
13	Osun	2,579
14	Enugu	2,490
15	Nasarawa	2,385
16	Akwa Ibom	2,248
17	Gombe	2,122
18	Katsina	2,114
19	Ebonyi	2,039
20	Anambra	1,909
21	Abia	1,700
22	Imo	1,665
23	Bauchi	1,551
24	Benue	1,366
25	Borno	1,344
26	Adamawa	1,134
27	Taraba	1,001
28	Niger	935
29	Ekiti	920
30	Bayelsa	908
31	Sokoto	786
32	Jigawa	538
33	Yobe	499
34	Kebbi	450
35	Cross River	404
36	Zamfara	244
37	Kogi	5
<b>TOTAL</b>		<b>171,324</b>

@NCDCgov 

COVID19.NCDC.GOV.NG 

Source: NCDC

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@moman\_info  
info@moman.org  
+234 1 453 6155



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