Energy, Natural Resources & Investments

19th January 2026



Opeyemi Ojebode

Political Risks in the Nigerian Energy Sector: Pathway for Reform[1]

1. Introduction

Nigeria's energy sector spans the oil and gas industry, the power sector, and the growing renewable energy industry. As a major oil and gas producer, hydrocarbon exports are the mainstay of the Nigerian economy. Away from oil, Nigeria has vast deposits of other energy resources such as coal and wood fuel and flow energy sources (wind, tidal and hydro).[2] The power subsector which operates a value chain model comprising generation, distribution and transmission companies is regulated by the Nigerian Electricity Regulatory Commission ("NERC") and other States Electricity Regulatory bodies. In line with the provisions of the *Electricity Act* 2023, about 16 states[3] have established their electricity regulatory commission and have expressed their willingness to take over the regulatory oversight of their intra-State electricity from NERC.

To meet its net-zero ambition, investment is being sunk into developing renewable energy projects as part of Nigeria's energy transition agenda. However, energy projects entail substantial, long-term capital commitments that are highly vulnerable to shifts in government actors and public policy. Energy resources are assets of national

---

1 **Opeyemi Ojebode**, Associate, Cross-departmental, S. P. A. Ajibade & Co., Ibadan.

2 Francis A. Oluleye & Alex O. Koginam, 'Nigeria's Energy Sector Privatization: Reforms, Challenges and Prospects', *South Asian Research Journal of Humanities and Social Sciences,* 2019 pp. 189, available at: <https://doi.org/10.36346/SARJHSS.2019.V01I02.028> accessed 10 December 2025.

3 Imo, Niger, Plateau, Ekiti, Ondo, Enugu, Oyo, Edo, Kogi, Lagos, Ogun, Abia, Delta, Bayelsa, Nasarawa and Anambra States.

interests and the investments are typically large-scale and long-term, requiring long periods before sunk investments and returns are realised. This makes energy investments highly susceptible to political risks.

2. Political Risk in the Energy Sector

Risk has been defined as "uncertainty in regard to cost, loss or damage."[4] Risk is inherent in investment; it may be commercial or non-commercial. Commercial risks generally are those risks that are connected to the economic and market environment within which a business operates. Non-commercial risks are risks that are not related to market conditions, operational mistakes, or financial mismanagement. Political risk is a non-commercial risk associated with the actions of the state where the investment is located. These risks derive from the exercise of political power and imply "the probability that a host government will, by act or omission, reduce the investor's ability to realize an expected return on investment.[5] Political risk in international business exists: (1) when discontinuities occur in the business environment, (2) when they are difficult to anticipate, and (3) when they result from political change. To constitute a risk, these changes in the business environment must have a potential for significantly affecting the profit or other goals of a particular enterprise.[6] Political risk is the risk that the laws of a country will unexpectedly change to the investor's detriment after the investor has invested capital in the country, thereby reducing the value of the individual's investment. Put simply, political risk is the risk of *ex post facto* government intervention impacting commercial dealings. Examples of political risk are the risks that a government will raise import or export duties, increase taxes, impose further regulations, or nationalize or expropriate the assets of the investor.[7] Types of political risk of most concern to investors in developing countries are; adverse regulatory changes, breach of contract, transfer and convertibility restrictions, civil disturbance, non-honoring of government guarantees, expropriation or nationalization, terrorism and war.[8]

---

4 Scott L. Hoffman, *The Law and Business of International Project Finance*, Cambridge University Press, 2008 pp. 27.

5 Juan C. Hoyos, 'The Role of Bilateral Investment Treaties in Mitigating Project Finance's Risks: The Case of Colombia' (2012), available at: <https://dx.doi.org/10.2139/ssrn.2163284> accessed 11 December 2025.

6 Robock, S. H., 'Political Risk: Identification and Assessment', *Columbia Journal of World Business*, 6, (1971) pp 7.

7 Paul E. Comeaux & N. Stephan Kinsella, 'Reducing Political Risk in Developing Countries: Bilateral Investment Treaties, Stabilization Clauses, and MIGA & OPIC Investment Insurance', *NYLS Journal of International and Comparative Law* Vol 15, No. 1. (1994) pp. 4.

8 Multilateral Investment Guarantee Agency World Bank Group, MIGA, World Investment and Political Risk (2011) pp. 20, available at:

2.1 **Expropriation and Nationalization**

Expropriation is an act of government taking of private property for public use, with the owner usually paid compensation. Expropriation may be direct or indirect, classic or creeping. Classic expropriation is a direct expropriation in the interest of the public, non-discriminatory, carried out under due process of law, and accompanied with prompt and effective compensation.[9] Creeping expropriation on the other hand is an indirect expropriation that gradually renders an investment valueless due to the actions of the government. Creeping expropriation takes place through a series of actions, none of which might qualify as an expropriation by itself, but the aggregate effect of which is to destroy the value of the investment.[10] In a regulatory taking-or "creeping" expropriation case, the government is not directly profiting from the expropriation in the sense that it is not taking the revenues from a project that the foreign investor would otherwise enjoy. The government may benefit from greater political support due to higher regulatory standards popular among key constituencies, but the government in these cases does not have the intent to seize the foreign property and gain the revenue from the investment for itself.[11]

Nationalisation refers to a situation where a State takes control of a specific sector or industry. The concept of nationalization refers to when a government takes control of a company or industry, which generally occurs without compensation for the loss of the net worth of seized assets and potential income. This action may be the result of a nation's attempt to consolidate power; reduction of foreign ownership of industries representing significant importance to local economies; or to prop up failing industries.[12]

<https://documents1.worldbank.org/curated/en/406821468183549505/pdf/731680PUB0WIPR110Box371940B00PUBLIC0.pdf > accessed 12 December 2025.

9 Section 25 of the *Nigerian Investment Promotion Commission Act*, Cap N117 LFN 2004, guarantees against expropriation. Section 25 (2) – (3) provides thus: "(2) There shall be no acquisition of an enterprise to which this Act applies by the Federal Government, unless the acquisition is in the national interest or for a public purpose and under a law which makes provision for (a) the payment of fair and adequate compensation; and (b) a right of access to the courts for the determination of the investor's interest or right and the amount of compensation to which he is entitled. (3) Any compensation payable under this section shall be paid without undue delay, and authorisation for its repatriation in convertible currency shall where applicable, be issued".

10 Christop H. Schreuer, 'Rapport: The Concept of Expropriation under the ECT and other Investment Protection Treaties', <https://investmentlaw.univie.ac.at/fileadmin/user_upload/p_investmentlaw/Writings/A017.pdf> accessed 11 December 2025.

11 Rachel Brewster, 'Pricing Compliance: When Formal Remedies Displace Reputational Sanctions', *Harvard International Law Journal*, Vol. 54, (2013) pp. 293.

12 Cidália Cossa, et al., 'Nationalization and Privatisation of Petroleum Industry: An Evaluation of the Pros and Cons', *Covenant Journal of Business & Social Sciences (CJBSS*) (2019) Vol. 10 No. 2 pp 12, available at: <http://journals.covenantuniversity.edu.ng/index.php/cjoe> accessed 12 December 2025.

Based on the principle of permanent sovereignty over natural resources,[13] the Nigerian government has the control of her natural resources. Hence, investment in oil and gas entail the risk of expropriation or nationalization by the Nigerian government. The international law on political risk developed largely in response to international oil companies and host government disputes after the nationalizations of oil and gas investments.[14]

2.2 Political Instability, Corruption and Regulatory Changes

Nigeria is ranked 140 out of 180 countries in Transparency International's Corruption Perception Index.[15] Corruption in Nigeria is perceived to be deep-rooted and pervasive, impacting the business economy without sparing the energy sector. As a result, investors are subjected to arduous licensing requirements, approval delays, and operational disruptions. This poses great worry for existing and prospective investors and collaborators. Due to these factors, privatisation has not been as successful as expected in modernizing Nigeria's power sector.[16]

2.3 Civil Disturbance, Terrorism and War

Risks of pipeline vandalism, oil theft, electricity theft, oil bunkering, kidnapping and attacks on officials of oil and gas enterprises pose enormous challenges to operators of oil and gas assets. These lead to delays in construction of energy infrastructure, hinders operation, and increase operational cost. Pipeline vandalism and oil theft are rampant in the Niger Delta and it is worrisome. In recent times, the incidence of pipeline vandalisation and the associated fire disaster has caused serious destruction of the ecosystem of host communities, oil spillage and environmental pollution, destruction of farmlands and properties, and the loss of lives.[17]

---

13 United Nations General Assembly Resolution 1803 (XVII), "Permanent Sovereignty over Natural Resources," (1962) available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/general-assembly-resolution-1803-xvii-14-december-1962-permanent> accessed 14 January 2026.

14 Owen Anderson et al., 'International Petroleum Law and Transactions, *Rocky Mountain Mineral Law Foundation* (2020) pp. 714.

15 Transparency International, *Global Corruption Barometer*, available at: <https://www.transparency.org/en/countries/nigeria> accessed 29 December 2025.

16 Pallavi R. et al., 'Breaking the cycle of corruption in Nigeria's electricity sector: Off-grid solutions for local enterprises', *Energy Research & Social Science* Vol. 101 (2023) pp. 1, available at: <https://doi.org/10.1016/j.erss.2023.103130> accessed 12 December 2025.

17 Onucha F., 'Poverty, Pipeline Vandalisation/Explosion and Human Security: Integrating Disaster Management into Poverty Reduction in Nigeria', *African Security Review* Vol 16 No 2 (2007) available at: <https://issafrica.org/topics/environmental-security-and-climate-change/01-jun-2007-poverty-pipeline-vandalisation-explosion-and-human-security-integrating-disaster-management-into-poverty-reduction-in-nigeria-freedo> accessed 29 December 2025.

2.4 Breach of Contract

Breach of contract occurs where there is a contract between the government and a private company, but the government fails to honour its contractual obligation to the company. Also, the government may fail to honour its obligation of repayment of debt used to finance a new energy project or enhance an existing project thereby exposing investors to losses due to its inaction. This may arise due to change of government or government reforms. There is no doubt that investors can seek redress based on the agreement between them and the government, however, it is one thing for investors to seek a redress within a reasonable period of time and it is another thing for such redress to be enforceable.

2.5 FX volatility, Currency depreciation and Restriction to Repatriation

Due to FX volatility and persistent currency depreciation, investors in the Nigerian oil and gas sector contend with great financial risk. Government limitations on currency transfer may be in the form of restrictive government policies or reform which may affect an investor's earnings, return on capital, principal and interests and other funds related to investment projects.

3. Political Risk Mitigation Strategies

Political risk can be managed through risk mitigation strategies which are mechanisms deployed to identify and assess risk, reduce and/or prevent its impact. These mechanisms include; due diligence, hedging, use of stabilization clauses, international arbitration clauses, bilateral investment treaties (BITs), multilateral investment treaties (MITs), political risk insurance through the Multilateral Investment Guarantee Agency (MIGA), Overseas Private Investment Corporation (OPIC) or private companies.

4. Conclusion

Being the largest and most populous country in Africa, there is an increasing demand for energy services in Nigeria which makes the Nigerian energy sector an investment hub for both national and foreign investors. However, political risk remains one of the principal challenges confronting investors in the sector. Such risks are not only caused by the actions or inactions of government, but also by political institutions and minority groups. The mechanisms through which political risks can be mitigated have been listed above. Unless political risk is mitigated, investors may not be willing to risk their resources in the Nigerian energy sector, a sector which requires capital to attain a significant growth.

For further information on this article and area of law,
please contact **Opeyemi Ojebode** at:
S. P. A. Ajibade & Co., Lagos by
Telephone (+234 1 472 9890), Fax (+234 1 4605092)
Mobile (+234 705 828 2258, +234 816 403 4208)
Email: oojebode@spaajibade.com
www.spaajibade.com