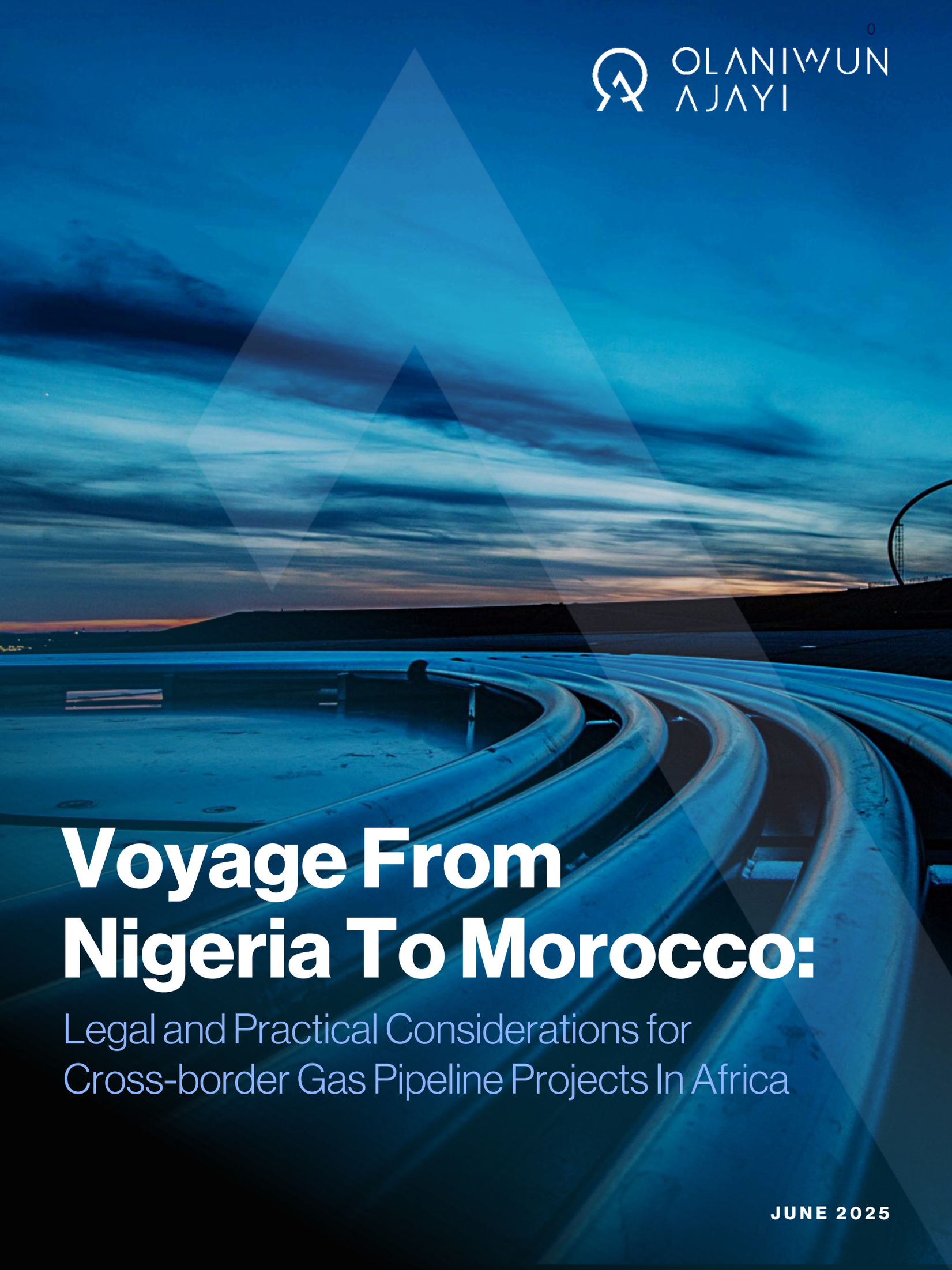
OLANIWUN AJAYI



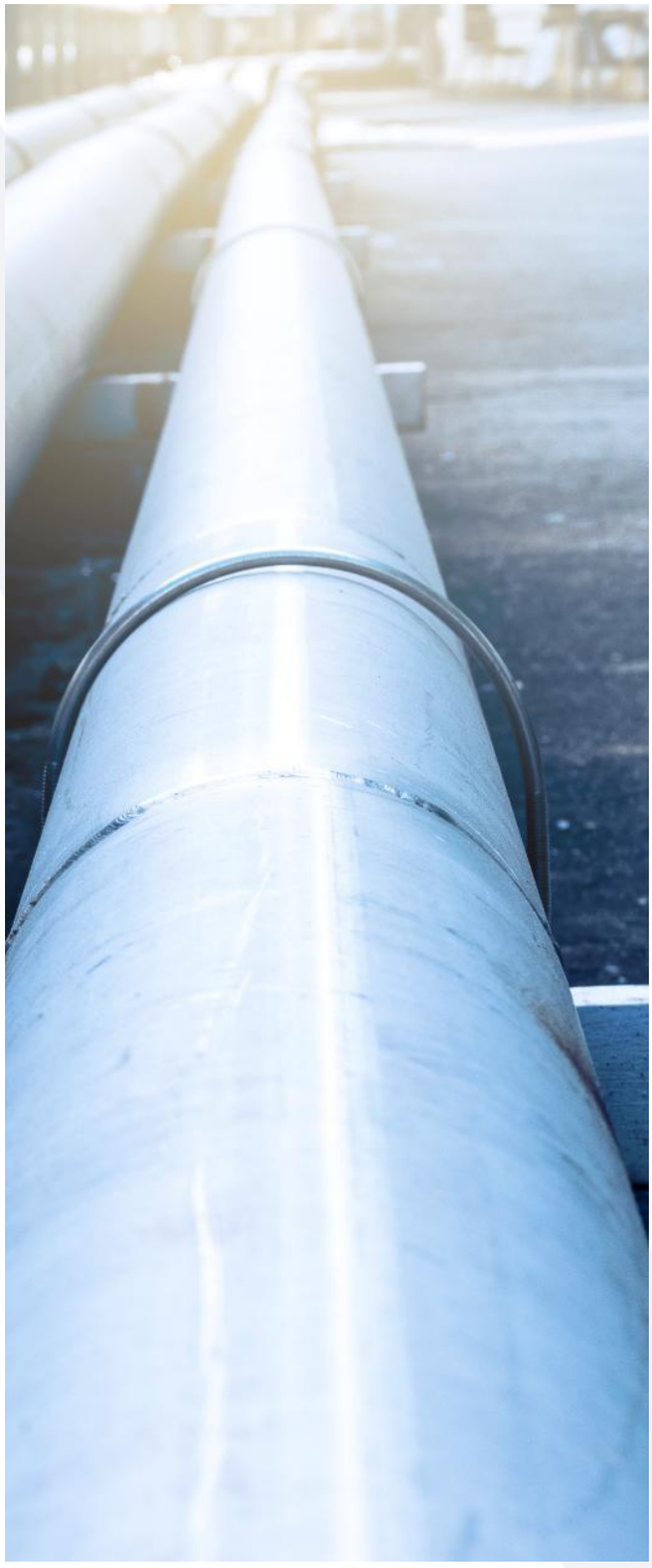
Voyage From Nigeria To Morocco:

Legal and Practical Considerations for Cross-border Gas Pipeline Projects In Africa

JUNE 2025

Introduction

The global energy landscape is undergoing a seismic shift, fuelled by factors such as the energy transition drive and geopolitical tensions, notably the Russia-Ukraine conflict. Whilst these factors have contributed to a widening gap between the demand and supply for natural gas, the increasing supply deficit also presents opportunities for natural gas producers to alleviate supply constraints and meet the growing global energy needs.



Amidst these opportunities, petroleum-producing nations, particularly in Africa and other developing economies, must navigate the unique challenges presented by the natural gas market, including ongoing decarbonisation policies, increasing financing constraints, market competition alongside pricing pressures and geopolitical and regulatory risks. These challenges significantly impact the development of gas infrastructure required for sustainable and long-term supply of natural gas across national borders.

Cross-border gas pipelines provide a compelling solution for reconciling the supply-demand imbalance whilst also fostering regional economic growth. In Africa, the West African Gas Pipeline Project (**WAGP**), which links natural gas sourced from upstream fields in the southern part of Nigeria to consumers across Ghana, Togo, and Benin (**the WAGP State Parties**), already exemplifies the potential of cross-border pipeline systems in addressing natural gas supply deficits across national borders.

More recently, the Nigeria-Morocco Gas Pipeline (**NMGP** or **the Project**) appears to be the continent's most ambitious venture in this regard. The NMGP seeks to create a direct and strategic route for Nigeria's natural gas to reach North Africa and, ultimately, Europe. Actualising the Project, however, requires the navigation of a complex web of legal, regulatory, and practical challenges across multiple jurisdictions.

This article examines the legal and practical considerations surrounding the NMGP, with particular emphasis on the legal and contractual framework required for the realisation of the Project.

Project Overview

The Project, proposed in December 2016,[1] was heralded by the signing of a Memorandum of Understanding (**MoU**) between the defunct Nigerian National Petroleum Corporation (**NNPC**), the Moroccan National Office of Hydrocarbons and Mines (**ONHYM**), and the Economic Community of West African States (**ECOWAS**) in September 2022.[2] The Project comprises an onshore and offshore gas pipeline spanning 13 countries across West and North Africa. The NMGP will serve as an extension of the existing WAGP and will be integrated with the existing Maghreb-Europe Pipeline, which extends from Algeria through Morocco to Spain.[3] Covering approximately 5,600 kilometres onshore and 1,700 kilometres offshore,[4] the NMGP is designed to transport up to 3bscf/d (three billion standard cubic feet) of natural gas per day. [5]

The implementation of the Project is estimated to span 25 (twenty-five) years, with projected investment costs ranging between US$20 billion and US$25 billion.[6] According to the ONHYM, the specific tenders for the transport of gas and the agreements for the construction of the NMGP will be signed in 2025.[7] The Project has now entered the land acquisition and resettlement stage, focusing on securing the necessary land for the NMGP and addressing the needs of affected communities through resettlement and compensation plans.

Models For Gas Pipeline Projects In Africa

While there are several approaches to the development of cross-border pipelines, this article focuses on 2 (two) primary models – the traditional approach and the unified asset approach.[8]

The traditional approach views a cross-border pipeline as a network of interconnected national pipelines, where each 'national' segment is subject to the authority and domestic legislation of the corresponding State.[9] Given the multiplicity of applicable legal regimes, this arrangement may be characterised by multiple operators of sections of the pipeline, with the operation of the pipeline based on the agreements between the operators of each national section. The traditional approach was adopted in the development of the Baku-Tbilisi Ceyhan (BTC) pipeline project.[10]

Conversely, the unified asset model considers cross-border pipelines as a unitary whole to be dealt with in a comprehensive manner. This requires multilateral agreements to be put in place with respect to the governance and operation of the pipeline as an integrated unit. This model was adopted for the development of the WAGP, with the cross-border pipeline being operated by the West African Gas Pipeline Company (**WAPCo**), a special purpose vehicle (**SPV**) incorporated by the sponsors of the WAGP Project.[11] Another SPV, N-Gas Limited, was established for the purpose of entering into commercial arrangements with respect to the purchase of gas from upstream producers, transportation on the Escravos-Lagos Pipeline System and the WAGP, and eventual sale of the gas to buyers in the WAGP State Parties. [12]

The WAGP Project is underpinned by a number of multilateral arrangements, including the Heads of Agreement for the Supply and Transmission of Natural Gas by the WAGP State Parties, an Intergovernmental Agreement[13] (**IGA**) between the WAGP State Parties and the treaty on the West African Gas Pipeline Project (the **WAGP Treaty**).[14]

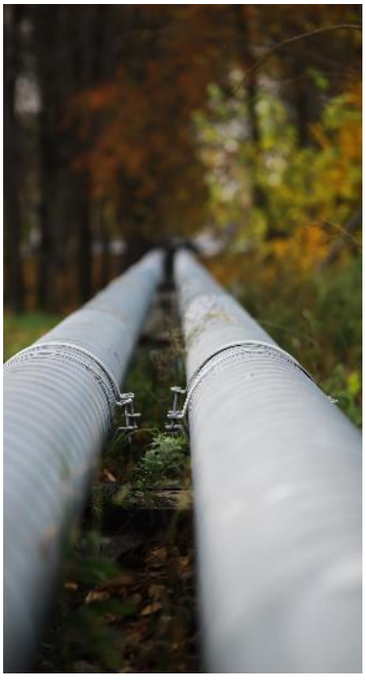
1. *M Patrick, 'Nigeria-Morrocco Gas Pipeline Project' Construction Review (2022) <https://constructionreviewonline.com/project-timelines/nigeria-morocco-gas-pipeline-nmgp-project-updates/>. accessed 3 March 2025.*
2. *Sara Zouiten, 'Morocco, Nigeria, ECOWAS Sign Gas Pipeline Agreement' Morocco World News (2022) <Morocco, Nigeria, ECOWAS Sign Gas Pipeline Agreement> accessed 19 February 2025.*
3. *Samuel Ajala, 'Nigeria-Morocco Gas Pipeline highly vulnerable: experts' Gas Outlook (2023) <https://gasoutlook.com/analysis/nigeria-morocco-gas-pipeline-highly-vulnerable-experts/*
4. *Ibid.*
5. *Antonia P. Torres, 'The agreements for the construction of the Nigeria-Morocco gas pipeline will begin to be signed in 2025' Atalayar (2024) <https://www.atalayar.com/en/articulo/economy-and-business/the-agreements-for-the-construction-of-the-nigeria-morocco-gas-pipeline-will-begin-to-be-signed-in-2025/20241201130000208024.html> accessed 25 January 2025.*
6. *Ibid.*
7. *Ibid.*
8. *Sergei Vinogra "Cross-Border Pipelines in International Law" Jstor <https://www.jstor.org/stable/40924388?readnow=1&seq=4#page_scan_tab_contents> accessed 6 February 2025.*
9. *Ibid.*
10. *https://www.bp.com/en_az/azerbaijan/home/who-we-are/operationsprojects/pipelines/btc.html accessed 13 May 2025.*
11. *The sponsors are Shell, Chevron. NNPC, Volta River Authority, BenGaz, and SotoGaz.*
12. *Article IV of the WAGP Treaty.*
13. *< https://execution of Intergovernmental Agreement> accessed 22 March 2025.*
14. *West African Gas Pipeline <https://www.wagpa.org/the-wagp/?utm> accessed 12 March 2025.*

International Legal Framework

Given that the Project entails the construction of offshore (submarines) pipelines, the United Nations Convention on the Law of the Sea (**UNCLOS**), to the extent that it deals with the laying of submarines on the continental shelf and high seabeds, would no doubt apply. While the UNCLOS recognises the right of States to lay submarine cables and pipelines on the continental shelf and the high seabeds,[15] it does not provide a comprehensive framework for ownership, taxation, and operation of cross-border pipelines. As a result, the implementation of the NMGP will require a web of bilateral or multilateral agreement(s) among States, that addresses ownership, taxation, and operation of the NMGP among the relevant States.

This is especially so, as there are no unified and common binding rules amongst the member States, regulating the sale and transportation of natural gas across cross-border pipelines.[16] As such, the implementation of the NMGP would be reliant on the cooperation of the relevant States, evidenced by entering into a treaty which will be binding on the signatory States. The treaty will primarily address broad and common issues affecting the pipeline (as opposed to specific local matters) such as cooperation between States, acquisition of land, and the requirement to harmonise applicable taxes.[17]
In addition to the treaty, States may be required to provide assurances and guarantees within the IGA. These can include commitments to maintain a stable regulatory environment and to ensure the physical security of the pipeline. The nature of these assurances can range from political commitments to legally binding guarantees backed by sovereign authority, designed to mitigate risks and enhance investor confidence.

Furthermore, given that the NMGP will attract different investors, it is likely that Host Government Agreements (**HGAs**) will be entered in connection with the Project. HGAs are contracts between the company responsible for the implementation of the NMGP and the States through whose territory the pipeline runs. The HGA is critical as it outlines the responsibilities of the host States and the project company on a variety of matters including commercial and fiscal matters, environmental management, technical standards, liabilities, and other aspects related to the Project's implementation. It also details the procedures for resolving disputes, establishing a clear mechanism for settling any conflict that may arise during the construction and operation of the Project.



To exemplify with the WAGP, the WAGP State Parties voluntarily entered the WAGP Treaty, which provided for a harmonised legal and fiscal regime[18] to govern the WAGP. In the context of the WAGP, the International Project Agreement[19] between the WAGP State Parties and WAPCo serves as the HGA.

Further, under the WAGP Treaty, each WAGP State Party expressly consented to the export and transit of natural gas through its territory[20] and undertook not to expropriate any part of the WAGP.[21] Each WAGP State Party committed to use its best efforts to ensure that its legislature does not enact any legislative change that would materially affect the validity or continued application of the WAGP Treaty, the International Project Agreement, the enabling legislation, or any other instrument forming part of the WAGP legal framework. [22]

Additionally, subject to policy or regulatory considerations by the participating States in the NMGP, certain matters may be excluded from the scope of the treaty and left for each State to regulate at the domestic level. In the context of the WAGP, such matters are referred to as "Non-WAGP regime" issues, for example, fiscal matters, which remain within the sovereign jurisdiction of each WAGP State Party and are not harmonised under the WAGP Treaty framework.

15. *United Nations Convention on the Law of the Sea, Article 79 and 112.*
16. *This is unlike the European Union, which has adopted a more integrated and binding legal framework for cross-border pipelines: European Legislative Train Schedule, 'Common Rules for Gas Pipelines entering the EU Internal Market' (2025) <https://www.europarl.europa.eu/legislative-train/carriage/common-rules-for-gas-pipelines-entering-the-eu-internal-market/report?sid=8801> accessed 3 March 2025; Directive (EU) 2024/1788 of the European Parliament and of the Council of 13 June 2024 <https://eur-lex.europa.eu/eli/dir/2024/1788/oj> accessed 3 March 2025.*
17. *The ONHYM representative – Madam Amina Benkhadra, mentioned during her virtual presentation: "Building Strategic Partnership," at the inaugural Africa Gas Innovation Summit (AGIS) 2024 that the 13 countries within the territory of the $25billion NMGP will be signing an Inter-Governmental Agreement (IGA) for cross-border cooperation in Q2 2024. (ibid n6).*
18. *The treaty was domesticated in each state party as follows: West African Gas Pipeline Act 2005 – Nigeria; West African Gas Pipeline Act 2004 – Ghana; Bénin – Régime juridique et fiscal applicable au projet du GAO; Togo – Régime juridique et fiscal applicable au projet du GAO.*
19. *<https://execution of International Project Agreement> accessed 12 March 2025.*
20. *Article VIII of the WAGP Treaty.*
21. *Article IX of the WAGP Treaty.*
22. *Article II(3)(c) of the WAGP Treaty.*

Legislative Framework at the Domestic Level

Where a treaty is established, each State party becomes responsible for passing domestic legislation to give legal effect to the provisions of the treaty within each State's legal system. It is important to note that the domestic treatment of a treaty depends significantly on whether a State is **monist** or **dualist**. In monist systems, treaties automatically become part of domestic law upon ratification, whereas in **dualist systems**, treaties require implementing legislation to have domestic effect. [23] To illustrate, with a dualist State like Nigeria, following the execution and ratification of the WAGP Treaty, the Nigerian legislature enacted the West African Gas Pipeline Project (Special Provisions, etc.) Act 2005, which replicated the provisions of the WAGP Treaty.

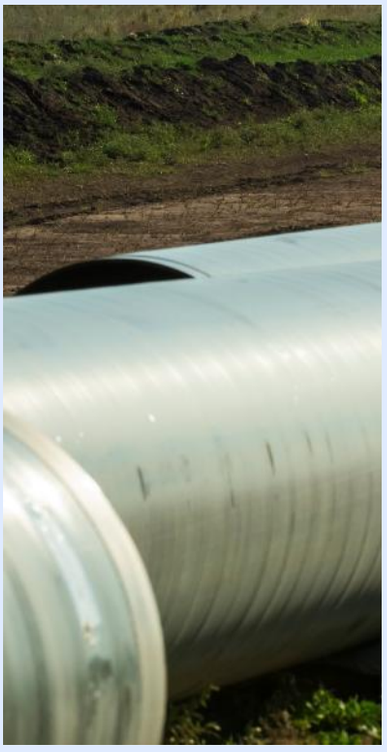
Furthermore, to avoid any disruption to the NMGP at State level, each State would undertake in the local legislation not to revoke, terminate, or repudiate the treaty or any of the agreements entered into by the State in connection with the NMGP.[24]

Contractual Framework

It is envisaged that the contractual framework for the NMGP will be multifaceted, involving a diverse range of investors and spanning multiple legal jurisdictions. To assist States and investors with a neutral and non-prescriptive starting point for negotiations, the Energy Charter Secretariat developed and published a model for cross-border pipelines (**Model Agreements**). [25] Taking a cue from the Model Agreements and agreements entered into for the WAGP Project, several key commercial arrangements that may be entered into for the development, operation, and maintenance of the Project are set out below.

GTA

The Gas Transportation Agreement(s) (GTA)sets out the terms for the transportation of gas through the pipeline. It is a pivotal contract that outlines the terms and conditions under which the pipeline operator transports natural gas on behalf of shippers.[26] Additionally, the GTA outlines the responsibilities of the transporter(s), including scheduling, delivery, and the maintenance of pipeline integrity. Key provisions of the GTA will also speak to the transportation tariff structure, conditions for resolving disputes, and the technical specifications for gas delivery.



Multiple GTAs are likely to be entered into between shippers and the NMGP operator to facilitate the delivery of gas to end users in North Africa and Europe. However, given the logistical and operational complexities involved in negotiating and managing numerous GTAs, the NMGP could alternatively be operated on an open-access basis, governed by a uniform network code applicable to all stakeholders. A dual approach was adopted in the case of the WAGP, where initial transportation on the WAGP was governed by GTAs. As additional shippers began utilising the WAGP, the WAGP Network Code (**WNC**) was introduced to replace individual GTAs. The WNC provides for standardised, non-discriminatory access to the WAGP, stipulates the applicable tariffs payable for using the WAGP, and sets out general terms for the transportation of gas via the WAGP.

23. *https://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=1620&context=facpubs/1000 accessed 13 May 2025.*
24. *The WAGP Treaty required each state party to enact enabling legislation that aligns with the terms of the treaty and mandated the adoption of harmonised regulations across all state parties, ensuring consistent standards for the construction, operation, and maintenance of the pipeline.*
25. *'Energy Charter Model Agreements' International Energy Charter (2015) < https://www.energycharter.org/what-we-do/trade-and-transit/model-agreements/> accessed 25 January 2025. These Model Agreements were prepared based on best international practices and they include – an Intergovernmental Pipeline Model Agreement (IG-PMA) for state-to-state agreements and a Host Government Pipeline Model Agreement (HG-PMA) for agreements between an individual state and the project investors.*
26. *It will define critical elements such as the volume of gas to be transported, the transporter's obligations, taxes, shipper's obligations, invoicing and payment, quality, and off-specification gas, measurement and analysis, transportation rates, and the duration of the agreement.*

GSA

Gas Sale Agreements (GSA) govern the sale of natural gas between gas suppliers and buyers. Expectedly, GSAs will be executed for the sale of gas transported via the NMGP and will cover terms such as gas quantities, gas pricing,[27] gas specifications and the specific delivery points. The GSAs will also outline the terms under which gas supply may be suspended or terminated, as well as the payment structures and guarantees.

GSA Payment Mechanics

In large-scale transactional gas pipeline projects like the NMGP, establishing a comprehensive framework to manage various operational and commercial aspects is crucial. For instance, while certain components of the gas price, such as the pipeline transportation tariffs, may be centrally determined (for example in WAGP, as provided under the Tariff Methodology agreement), the payment mechanics across the value chain must also be clearly defined. A potential model involves appointing a central commercial manager or entity that receives payments from gas purchasers and administers onward payments to the relevant participants in the value chain, including transporters and upstream gas sellers.

This approach is not without precedent. For the WAGP, N-Gas Limited plays a central role in managing and administering payments to various stakeholders. The WAGP structure is supported by guarantees and payment security packages that govern both payment flows and credit support. As such, in the context of the NMGP, similar mechanisms, whether through a designated commercial aggregator or financial intermediary, should be considered to ensure bankability and efficient revenue distribution across the value chain.

27. *While the GSAs determine the price of upstream gas, it is important to note that matters such as gas specifications may be determined centrally as part of the project. It is equally not atypical to have a centralised payment administration system and price escalation framework in cross-border projects.*

Practical Considerations For The NMGP

Projects of this nature are typically subject to a range of factors including economic, operational, environmental, etc., that could impact their successful implementation and potentially affect investors' confidence.

Financing

At the heart of most infrastructure projects is securing financing. The NMGP will likely adopt a project financing model with a mixture of equity and debt financing.[28] Projects like the NMGP typically require substantial upfront investments, running into billions of dollars. For example, the Trans-Anatolian Natural Gas Pipeline had an estimated cost of US$8.5 billion with US$2.5 billion raised from equity injection, and US$6 billion from debt financing.[29]

The Project will be funded through a combination of public and private sector contributions, as well as support from international financial institutions. More specifically, the involvement and interest of development finance institutions (**DFI**) (particularly Africa-focused DFIs) are especially important from these early days as they can provide technical advisory support in relation to the NMGP. Furthermore, the Project sponsors need to consider seeking the involvement of export credit agencies as they considerably de-risk projects of this nature by providing guarantees to other lenders on the Project.

To mitigate political risks that are associated with cross-border projects like the NMGP, such as modifications to governmental policies that could compromise the project's sustainability, financiers usually demand political risk guarantees. Tools like those offered by the Multilateral Investment Guarantee Agency[30] of the World Bank are essential for boosting investor trust, guaranteeing financial stability, and protecting against political upheavals that can affect the Project's outcome.

Beyond political risk guarantees, other types of support may be crucial to successfully secure funding for the NMGP. These include direct financial contributions from participating governments, provision of completion guarantees and debt service undertakings. Securing a comprehensive package of financial and non-financial support will be vital in ensuring the long-term viability and bankability of the Project.

Environmental Considerations

Another key consideration for the feasibility of the NMGP is environmental considerations. The NMGP's passage through diverse ecosystems, such as forests, wetlands, and coastal areas, raises substantial concerns relating to soil erosion, habitat destruction, and environmental pollution from leaks. These risks can trigger opposition from local communities, environmental groups, and regulatory bodies, affecting project sustainability and compliance with environmental laws.

International investors are placing increased emphasis on projects that demonstrate strong environmental responsibility, particularly in the context of climate change and carbon emissions reduction. For example, the Baku-Tbilisi-Ceyhan Pipeline involved extensive environmental assessments and consultations with impacted communities.[31] Consequently, a firm commitment to environmental risk management and adherence to rigorous sustainability standards is essential for the NMGP to secure funding and proceed smoothly.

Land Acquisition

Securing land for the NMGP could involve displacing local communities, and in areas with unclear land ownership structures, disputes over titles, compensation, and relocation may arise. There may be resistance from communities dependent on the land for agriculture or other livelihoods if there are no provisions for fair compensation or relocation support, as seen in the East African Crude Oil Pipeline Project, where protests arose over inadequate consultation and compensation.[32]

To address this challenge, the stakeholders must engage closely with local communities to ensure fair compensation and effective relocation plans that consider the socio-economic impact on the affected population.

28. *External financing for the NMGP has so far been provided by the Islamic Development Bank and the OPEC Fund for International Development for the FEED stage. ibid (n6).*
29. *'Challenges and Trends in Financing Gas and Oil Pipelines' ESFC Investment Group < https://esfccompany.com/en/articles/oil-and-gas/challenges-and-trends-in-financing-gas-and-oil-pipelines/ > accessed 5 February 2025.*
30. *World Bank Port Reform Tool Kit Financial Implications of Port Reform, Part II, Principles of Financial Modelling, Engineering and Analysis<https://www.ppiaf.org/sites/ppiaf.org/files/documents/toolkits/highwaystoolkit/6/bibliography/pdf/the_world_bank_group_partial_risk_guarantee_program.pdf> accessed 6 January 2025.*
31. *International Finance Corporation 'The Baku Tbilisi Ceyhan (BTC) Pipeline Project' (2006) <https://documents1.worldbank.org/curated/fr/174011468016223078/pdf/382160ECA0BTC1LOE0201PUBLIC1.pdf> accessed 8 January 2025.*
32. *Civicus Lens 'Game Not Over: Resistance against East African Crude Oil Pipeline' <https://lens.civicus.org/game-not-over-resistance-against-east-african-crude-oil-pipeline/> accessed 8 January 2025.*

Security of Gas Supply

The construction and operation of the NMGP will require extensive cooperation among countries with varying security conditions and political climates. Cross-border security coordination is critical to prevent disruptions or sabotage, particularly in regions with historical unrest, such as the Niger Delta in Nigeria and Senegal. Given the geopolitical and economic importance of the NMGP, concerned parties will need to take measures to address these issues and ensure the sustainability of the Project.

Risk of Shifting Energy Demands

One of the key objectives of the NMGP project is establishing a global market for the supply of natural gas at completion, which is set for 2048.[33] However, by that time, there is a remote risk that Europe may have significantly transitioned towards renewable energy sources as part of its efforts to meet climate targets and reduce dependence on fossil fuels. This shift could result in a decreased demand for natural gas, raising concerns about the sufficiency of the European market for the gas exports from the pipeline.

If Europe reduces its reliance on natural gas due to increased renewable energy production, there may be limited market opportunities for the gas transported through the NMGP, potentially undermining the financial viability of the entire project.

Vandalism & Sabotage of the Pipeline

Vandalism and sabotage of gas pipelines pose significant threats to energy security and geopolitical stability. The Nord Stream II, a major natural gas pipeline connecting Russia to Germany under the Baltic Sea, was severely damaged in 2022 due to suspected sabotage, highlighting the vulnerability of these types of critical energy infrastructure.[34]

Taking a pre-emptive approach, some of the agreements for the Project could include clauses for investment in surveillance and monitoring technologies to detect threats early, as well as provisions for joint responses where sabotage occurs, thus ensuring a more secure and stable energy supply chain.

The NMGP vis-à-vis Decarbonisation in Africa

Africa's overarching decarbonisation strategy prioritises a transition towards its vast renewable energy resources, with significant investments directed at fostering sustainable development and reducing carbon emissions. The NMGP strategically aligns with this trajectory by positioning natural gas as a crucial transition fuel. While acknowledging its fossil fuel origins, natural gas offers a lower carbon footprint compared to oil, rendering it a more environmentally sound intermediary during the progressive shift towards renewable energy dominance.

Notably, Nigeria's Decade of Gas declaration made in 2020 underscores the approach in the foregoing paragraph by aiming to monetise the nation's gas reserves to underpin a sustainable and cleaner energy future, with the NMGP serving as a pivotal component in achieving regional integration and stimulating economic growth. Therefore, rather than contradicting decarbonisation efforts, it is arguable that the Project complements Africa's broader energy transition goals by facilitating the responsible utilisation of natural gas as a bridging fuel.

Conclusion

The journey from Nigeria to Morocco for a gas pipeline project is more than just an engineering feat; it is a complex tapestry of legal, economic, and geopolitical considerations. While the vision of a transcontinental pipeline that bridges the energy gap between West Africa and Europe holds immense promise, its realisation demands careful navigation through Africa's diverse regulatory landscapes, multifaceted legal frameworks, and the intricate balance of national interests. From aligning with international treaties to addressing environmental concerns and ensuring the equitable distribution of benefits, the path to success lies in meticulous planning, collaboration, and foresight.

Ultimately, the NMGP represents a microcosm of Africa's potential – an opportunity to harness its vast natural resources, build infrastructural connectivity, and create a sustainable, unified energy market that transcends borders. If navigated wisely, it can be the cornerstone of a new era of cooperation and prosperity across the African continent, setting a precedent for future pan-African projects that reshape the economic landscape of the Continent.

33. *Irene Jerry 'The Moroccan Nigerian Gas Pipeline Project Includes 4 New African Countries' (2024)<https://africaenergyinsights.com/aei-blog/post/the-moroccan-nigerian-gas-pipeline-project-includes-4-new-african-countries/> accessed 9 January 2025*
34. *Julian Borger, 'Nord Stream Attacks Highlight Vulnerability of Undersea Pipelines in West' The Guardian International < https://www.theguardian.com/business/2022/sep/29/nord-stream-attacks-highlight-vulnerability-undersea-pipelines-west > accessed 3 February 2025*

Lagos
The Adunola,
401 Close, Banana
Island, Ikoyi,
Lagos, Nigeria

London
29th Floor, 30 St
Mary Axe, London.
EC3A 8AF,
United Kingdom

Abuja
4th Floor Leadway
House, Plot 1061,
Cadastral Avenue,
Central Business
District,
Abuja, Nigeria.

Port Harcourt
17, Road 315, Flat 5,
BICS Suites, 25
Herbert Macaulay
Street,
Old GRA, Port
Harcourt,
Rivers State, Nigeria

Chukwuemeka Osuji
cosuji@olaniwunajayi.net

+2341270 2551

www.olaniwunajayi.net