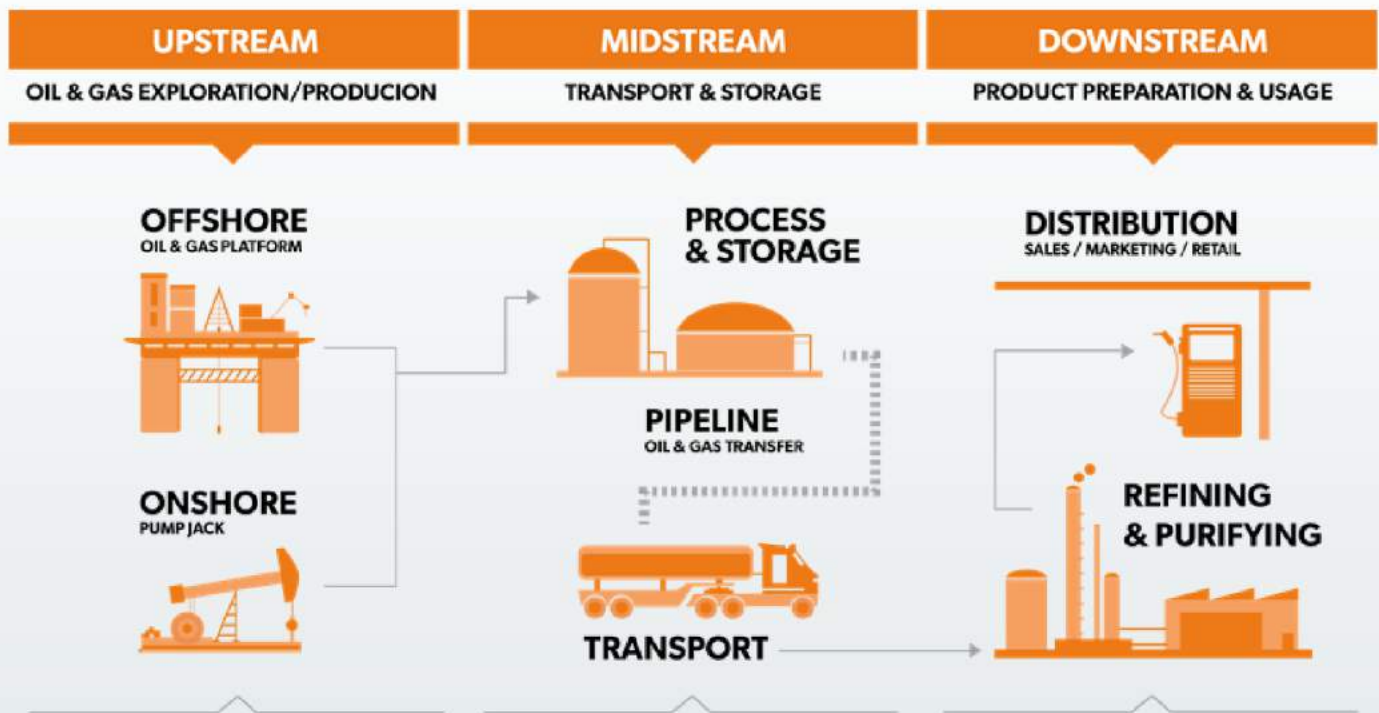


# NEWSLETTER

Www.lawyersinenergynetwork.com



## OVERVIEW OF THE MIDSTREAM AND DOWNSTREAM PETROLEUM ALTERNATIVE DISPUTE RESOLUTION REGULATIONS, 2023

### INTRODUCTION

Disputes have always been a part of mankind since time immemorial. Whether as breaches of contracts, tortious liabilities, or outright disregard for laid down laws and regulations, disputes have always posed a threat to smooth human operations, hence the institution of dispute resolution mechanisms. Apart from human rights violations, dissolution of marriage, acts of crime and the likes, which require the superimposition of the courts of law, other less heinous disputes around commercial transactions et al have since adopted alternatives to the traditional disputes resolution method such as arbitration, mediation etcetera as the preferred dispute resolution mechanism as it is cheaper and faster among other perks.

The Midstream and Downstream Petroleum Alternative Dispute Resolution Regulations, 2023 were issued by the Nigerian Midstream and Downstream Petroleum Regulatory Authority (the Authority) to address the need for a robust and efficient dispute resolution mechanism within the midstream and downstream petroleum industry. These regulations aim to provide timely and cost-effective resolutions for disputes that may arise in this sector. By establishing a Midstream and Downstream Petroleum Alternative Dispute Resolution Centre and implementing streamlined procedures, the regulations seek to promote a fair and equitable environment for resolving disputes and ensuring the smooth operation of the industry.

In this article, we shall discuss some of the key provisions of the Regulations, with a view to understanding how it will help address conflicts and disputes amongst industry players in the midstream and downstream petroleum sector.

---

## THE MIDSTREAM AND DOWNSTREAM PETROLEUM ALTERNATIVE DISPUTE RESOLUTION CENTRE

---

The Regulations begin by establishing a Midstream and Downstream Petroleum Alternative Dispute Resolution Centre (the Centre) as a specialised platform to facilitate the resolution of disputes in the midstream and downstream petroleum industry. Its objectives include establishing Alternative Dispute Resolution (ADR) mechanisms and providing timely and cost-efficient dispute resolution procedures. The Centre coordinates, supervises, and administers ADR processes, resolves disputes through various ADR methods, and collaborates with regional and international institutions. It maintains a register of qualified arbitrators, experts, mediators, and conciliators and ensures the enforcement of decisions and agreements. The Centre also focuses on raising awareness, building capacity, and promoting the use of ADR methods through conferences, workshops, and publications. Overall, it serves as a crucial platform to resolve disputes and foster harmonious relations in the Nigerian midstream and downstream petroleum industry.

---

## JURISDICTION OF THE CENTRE

---

In the resolution of disputes, the jurisdiction of the Centre is limited to eight (8) specific areas. These are: operations between licensees or permit holders in the midstream and downstream industry; provision of open access in gas and

petroleum liquids operations; gas trading and settlement transactions; provision of third-party access to facilities and infrastructures employed for gas and petroleum liquid operations by owners operating on their own account; labour matters; commercial, technical and operational aspects of the midstream and downstream petroleum operations among licensees or permit holders; and, any other dispute involving companies within or outside Nigeria.

In the event of a dispute involving a licensee or permit holder in respect of midstream and downstream petroleum operations, the affected party is expected to submit the dispute to the jurisdiction of the Centre prior to litigation.

---

## DISPUTE RESOLUTION MECHANISMS

---

The Centre is empowered to employ various dispute resolution mechanisms to facilitate the resolution of disputes in the midstream and downstream petroleum industry. These mechanisms may range from expert determination, conciliation, mediation, arbitration, or any other approved dispute resolution methods. Parties involved in disputes can choose the appropriate mechanism based on their specific needs and preferences. These mechanisms offer a flexible and efficient approach to resolving disputes, allowing for timely and cost-effective resolutions. By providing a range of options, the Centre aims to promote fair and amicable settlements, fostering a conducive environment for dispute resolution in the industry.



---

## ORGANISATIONAL STRUCTURE OF THE CENTRE

---

The Centre has a well-defined organisational structure consisting of two main components: the Advisory Council and the Administrative Secretariat. The Advisory Council plays a crucial role in supervising and guiding the overall operations of the Centre. It comprises highly qualified and experienced individuals from various relevant fields, including petroleum operations, law, economics, business administration, and ADR methods. The Council is responsible for approving policies, rules, and guidelines, as well as reviewing and approving the annual budget and financial statements of the Centre. It also appoints and oversees the Centre Coordinator, who serves as the manager and representative of the Centre.

The Administrative Secretariat, under the supervision of the Centre Coordinator, provides essential administrative support services. It handles tasks such as maintaining records, coordinating dispute resolution proceedings, managing the Centre's website, and facilitating communication with the parties involved. The Secretariat also plays a role in maintaining the register of arbitrators, mediators, conciliators, and experts, ensuring transparency and accessibility in the selection of dispute resolution professionals. Overall, this organisational structure ensures effective governance, coordination, and management of the Centre's activities, allowing for the smooth operation of the alternative dispute resolution processes in the midstream and downstream petroleum industry.

---

## MEMBERSHIP OF THE CENTRE

---

Members of the Centre is open to arbitrators, conciliators, and those with expert knowledge and technical experience in the midstream and downstream petroleum operations. This membership is to be granted by the Advisory Council where the applicant meets the prescribed membership requirements. Members of the Centre must, amongst others, be able to remain neutral and impartial; be trustworthy; have respect for the parties; and, have the ability to think outside the box in the resolution of disputes. The Regulations prohibits members of the Advisory Council from acting as arbitrators, conciliators, or experts in any dispute before the Centre.

---

## FINANCES OF THE CENTRE

---

The Centre is to be financially supported by various sources, contributing to its operational sustainability. The Centre's funds primarily consist of allocations provided by the Authority, ensuring continuous financial support. Additionally, the Centre generates revenue through fees charged for registration of arbitration and conciliation applications, registration on the lists of arbitrators, mediators, conciliators, and experts, as well as membership fees, publications, and training activities. The Centre may also receive funds and grants from multilateral agencies, bilateral institutions, and other sources dedicated to advancing alternative dispute resolution in the midstream and downstream petroleum sector. These diverse funding streams contribute to the Centre's ability to fulfil its objectives and provide effective dispute resolution services to the industry stakeholders.

Given the complexities and intricacies involved in midstream and downstream petroleum operations, disputes are bound to occur. These disputes may arise due to contractual disagreements, operational challenges, or conflicting interests among industry players. To ensure a conducive business environment and foster investor confidence, a reliable and efficient dispute resolution mechanism is crucial. The Midstream and Downstream Petroleum Alternative Dispute Resolution Centre established under the new regulations is that much needed specialised platform for resolving disputes through alternative methods such as arbitration, mediation, and conciliation. By providing a fair and impartial forum for dispute resolution, these regulations aim to instil confidence, promote stability, and safeguard the interests of all stakeholders involved in the industry. Ultimately, it signifies the country's commitment to fostering a fair and efficient business environment within the midstream and downstream petroleum sector. By establishing the Midstream and Downstream Petroleum Alternative Dispute Resolution Centre and implementing streamlined procedures, Nigeria aims to ensure the effective resolution of disputes and promote harmonious relationships among industry players.

**EDITORIAL TEAM**



**RAQEEBAH OLOKO ESQ.**  
*EXECUTIVE SECRETARY*



**TOMA FORTUNE ESQ.**  
*RESEARCH AND CORRESPONDENCE OFFICER*



**FAITH-OYIS SOLOMON**  
*SOCIAL MEDIA AND CONTENT DEVELOPMENT OFFICER*

