

On point

Upstream Petroleum Sector: New Operational Guidelines

The Government, through an enactment by Parliament, namely the Petroleum Commission Act, 2011 (Act 821), has established a regulatory body known as the Petroleum Commission (to be subsequently referred to as the Commission). The Commission's mandate is to regulate and monitor the upstream oil and gas sector among other functions.

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On the 24th of April 2012, PwC, with support from the Ghana Oil Club organised a Stakeholder Forum to discuss industry specific issues which now fall under the remit of the Commission. The Stakeholder Forum also provided an opportunity for the Commission to unveil its new operational guidelines. Although, the scope of function of the Commission, as summarised by the Chief Executive Officer (CEO), Dr, Kwabena Donkor, was broad, some of the key issues discussed during the forum included:

- ✓ the objects and functions of the Petroleum Commission;
- ✓ the issue of local content in the upstream petroleum industry; and
- ✓ the guidelines for acquisition of work permits for players in that industry.

Objectives and Function of the Commission

The object of the Commission is to regulate the management of petroleum resources and to co-ordinate associated policies.

In line with the above, the Petroleum Commission is to amongst others promote planned, well executed, sustainable and cost efficient petroleum activities which are intended to achieve optimal levels of resource exploitation for the overall benefit and welfare of citizens as per Section 3(a) of Act 821.

Dr Kwabena Donkor indicated that by this the Commission's intentions were to keep to the higher of international standards and local standards in the regulation of the sector through the issuance of guidelines, advice on policy and coordination of all petroleum activities.

He assured stakeholders that the Commission as a national body would pursue national as opposed to partisan interests to ensure that investors make good returns on their investments without neglecting the interests of Ghanaian citizens.

Local Content Regulations

On the issue of local content and local participation, Dr Juliette Tumasi-Anokye (Legal Services, Petroleum Commission) indicated that it was incorrect for one to claim that the issue of local content and local participation is not addressed in the current Ghanaian legislature. She said provisions had been made in the Petroleum (Exploration and Production) Law, 1984 (P.N.D.C.L. 84) for such matters. Furthermore she indicated that the current Petroleum Agreements signed with the various International Oil Companies (IOCs) have provisions to promote local content and local participation.

She indicated that the Commission would undertake the registration of service providers and also IOCs but in going through the registration, they would have to demonstrate their commitment to encouraging local content in their plans presented to the Commission for approval. Some areas expected to be covered relate to employment, training, research and development activities, technology transfer and legal services and insurance.

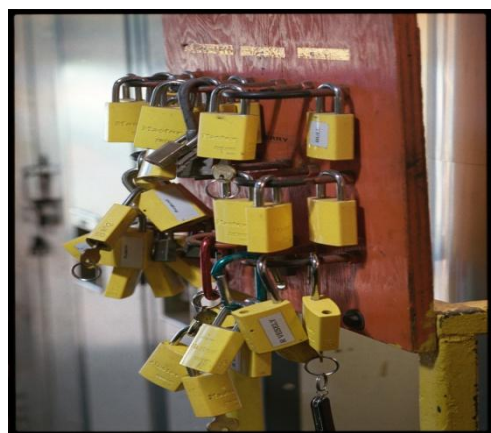
On the issue of insurance, it was mentioned that the Petroleum Commission will assist the National Insurance Commission (NIC) in implementing the restrictions imposed by Section 37 (Restriction on contract with offshore insurer) of Insurance Act, 2006 (Act 724) which states:

The above section of the section of the Insurance Act stipulates that unless authorised by the NIC, a person shall not enter into a contract of insurance with an offshore insurer in respect of:

- (a) property situate in the country,
- (b) liabilities arising in the country, or
- (c) goods, other than personal effects, being imported into the country.

In support of the position expressed by Dr Juliette Tumasi-Anokye, Dr Kwabena Donkor noted that local content in the oil and gas industry was the centre piece of the national development agenda and the Petroleum Commission would ensure that major players in the industry complied with applicable laws.

He further indicated that the Petroleum Commission is expected to issue draft regulations on local content as a proposal for consideration by the Sector Minister and this is expected to be presented to the Parliament of Ghana for consideration by July 2012. This legislative instrument is expected to update the existing law and fill in the gaps currently experienced in the industry.



Work Permits and Residence Permits

On this issue of work permits, Ms Johanna Awotwi (on secondment from the Ghana Immigration Service) announced that new application procedures, effective 2 April 2012,

require that all applications for such permits should be routed through the Petroleum Commission. Thus work permit application forms would have to be collected and returned to the Petroleum Commission upon completion.

The Petroleum Commission will vet the information submitted against a standard list of information requirements. Where the information supplied is unsatisfactory, the application shall be rejected by the Petroleum Commission.

Where the information supplied is satisfactory the Commission will forward the application to the Ghana Immigration Service with the applicant notified of the outcome after a period not exceeding 8 weeks.

Applications for residence permits are expected to be made after receipt of the work permit. The number of expatriates required in Ghana to work in the petroleum industry was a key issue raised. In this regard, the Petroleum Commission noted that companies presenting applications should provide convincing justification letters as to why they require expatriates to perform certain roles. It was emphasised that the responsibility is on the company to convince the Commission in writing.

Once application for work permits are submitted to the Petroleum Commission, following their first layer review and acceptance of supporting documentation, they would make recommendations for work permits to be issued by the Ghana Immigration Service. Applicants would then be notified by the Commission that the work permit is ready for collection.

The Petroleum Commission informed the participants at the Stakeholder Forum that applications for certain categories of jobs will not be supported by the Petroleum Commission for work permits, these categories include cleaning, catering, administration and legal services.

By way of satisfying the local content requirement, the Petroleum Commission urged oil operators/contractors and their sub-contractors to seek qualified Ghanaians in the diaspora with suitable experience in the petroleum industry and engage them in key positions in the oil industry in Ghana.

The Petroleum Commission indicated its recognition of Ghana's nascent petroleum industry and noted that although the industry may currently lack the requisite specialised skills, efforts should be made to recruit Ghanaians who have the potential to occupy positions currently being held by expatriates.

The Commission said it aims to meet with companies in an effort to examine their local training plans, and proposed means of implementing those plans.

Available publications

Copies of the following publications are available to be sent to you upon request:

- 2011 Ghana Tax Facts and Figures
- 2012 Ghana Budget Highlights
- Top Ten Tax issues in Ghana's Oil and Gas Sector
- Oil and Gas Matters Newsletter
- Quick Guide to Setting up in Ghana.
- On point publications on:
 - transfer pricing

- 2012 tax amendments
- pensions focus

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