



Brief of the Oil & Gas industry development in Ghana 2021 (Tax and Others)

August 2021



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Ghana's Oil and Gas industry had a positive outlook despite the effects of the novel corona virus disease (COVID-19). This in part, was largely due to the measures taken by the government to allow the import of critical oil and gas workers into the country during the height of the crisis. The first licensing round which occurred in 2019, was a success and necessitated a second licensing round in 2020. The second round however, failed to take place as scheduled due to the impact of COVID-19. There are currently three producing oil fields: Jubilee, Tweneboa, Enyenra, Ntomme (TEN) and Sankofa Gye Nyame (SGN).

Political Updates

Ghana held its general elections on 7 December 2020 and re-elected the incumbent President Nana Akufo-Addo, for another term. Although a new Minister of Energy has been appointed in 2021, there is no expectation of major policy changes in the sector.

Economic updates

In 2020, the Ghanaian economy felt the impact of COVID-19. In March 2020, the Bank of Ghana Monetary Policy Committee reduced the monetary policy rate from 16% to 14.5%. This rate remained in force for the rest of the year, while the inflation rate as at December 2020 stood at 10.4% against the original 8% target for the year. In view of the effects of the pandemic, the Minister of Finance, revised the outlook of the real GDP growth rate from an initial forecast of 6.8 to 0.9% for 2020 during a mid-year Budget Statement reading in Parliament.

In October 2020, Parliament passed into law the Petroleum Hub Corporation Bill which seeks to establish a Petroleum Hub Development Corporation to promote and develop a Petroleum Hub within Ghana. It is anticipated that the Petroleum Hub will be set up as a Free Zone area and will be situated within the Western Region of Ghana. The initial estimated cost for the infrastructural development to be undertaken is in the region of US\$ 60 million.

Regulatory framework

- **Ghana National Petroleum Corporation:** established by the Ghana National Petroleum Corporation Law, 1983 (P.N.D.C.L 64) as the National Oil Company of the upstream oil & gas industry in Ghana. The law also sets out the functional, administration and corporate governance aspects of the GNPC.
- **Energy Commission:** The Energy Commission Act, 1997 (Act 541) established the Energy Commission (EC) with functions relating to the regulation, management, development and utilisation of energy resources in Ghana. The EC regulates Ghana's electricity, natural gas and renewable energy industries, and advises the Government of Ghana on energy matters. It grants licences to companies that also trade in liquefied natural gas (LNG).
- **Ministry of Energy:** the ministry is responsible for the formulation, implementation, monitoring and evaluation of energy sector policies.
- **National Petroleum Authority:** The National Petroleum Authority (NPA) regulates, oversees and monitors the petroleum downstream industry including Oil Marketing Companies (OMCs) to ensure efficiency, growth and stakeholder satisfaction. The NPA also monitors and regulates petroleum prices by ensuring that prices are determined in accordance with the prescribed pricing formula. It grants licences to service providers and oil marketing companies, as well as protecting consumer interests and maintaining the highest standards of petroleum products offered to them.

- **Petroleum Commission (PC):** the PC is mandated to promote, regulate and manage the efficient conduct of upstream oil & gas operations and all allied activities. It also ensures the efficient utilisation of petroleum resources on a sustainable basis. Implementation of local content regulations fall under the PC. All upstream petroleum companies who intend to operate in Ghana are required to register with the PC and be issued with a permit before commencement of operations.



Fiscal/Taxation regime

The following tax legislations are applicable:

- **Petroleum Income Tax Law 1987 (P.N.D.C.L. 188) (PITL):** which provides for the taxation of income of Contractors (with Petroleum Agreements signed before 2015) carrying out upstream petroleum operations;
- **Income Tax Act 2015 (Act 896) (ITA) as amended:** The ITA provides for the taxation of income of Contractors and Subcontractors (with Petroleum Agreements signed in 2015 and thereafter).
- **The Petroleum Revenue Management Act, 2011 (Act 815) as amended:** which was amended in 2015 is expected to help Ghana to efficiently manage revenue from crude oil and empower government to set aside and to invest proceeds from crude oil;
- **Revenue Administration Act, 2016 (Act 915):** which provides for the administration and collection of revenue by the Ghana Revenue Authority and for related matters;
- **Petroleum Agreements:** these are agreements entered under the PEPL between the Republic of Ghana, GNPC and Contractors in the upstream operations. PAs have provisions which govern some aspects of the taxation of Contractors as well as the Subcontractors; and
- **Double Taxation Agreements (DTA) in Force** with the Republic of Ghana.

Taxation regime

The tax regime is guided primarily by the PA, ITA and depending on application of a stability clause, PITL. There are also various tax rulings affecting specific oil blocks.

Petroleum/Oil taxation: The ITA and various PAs provide for the petroleum income tax rate of 35%.

Royalties: A Contractor is subject to royalty at rates ranging from 4% to 12% of the gross production of crude oil. The applicable rate is based on the provisions of the PA of the Contractor.

Local Content Fund: The contractors' contribution is stipulated in the PA whilst the sub-contractor is expected to pay 1% of the total revenue from the contractor or licensee for every contract.

Gas taxation: There is no separate regime for gas taxation in Ghana and hence ITA or PITL (in conjunction with PA) will apply.

Liquefied natural gas (LNG) regime: There is no specified separate regime for liquefied natural gas taxation in Ghana and hence ITA or PITL (in conjunction with PA) will apply.

Withholding taxes

Under the ITA, the withholding tax rate for payments from Contractors to Subcontractors is 7.5% for resident entities and 15% for non-resident entities (this is subject to any stability clauses contained in the relevant PA).

VAT /National Health Insurance Levy (NHIL)/ Ghana Trust Fund Levy(GETFL) / COVID-19 Health Recovery Levy (CHRL): Flat rate of 3% on the value of taxable supply of goods supplied by wholesalers and retailers. NHIL at 2.5%, GETFL at 2.5%,CHRL at 1% and VAT at 12.5% on standard rated supply of goods and services. Application of VAT (and related taxes) is dependent on each oil block as per the terms of the PA.

Forms of contracts

In Ghana, petroleum contracts are based on a model Petroleum Agreement which is modified to reflect the terms agreed between the Government of Ghana (the State), the GNPC and the Contractor.

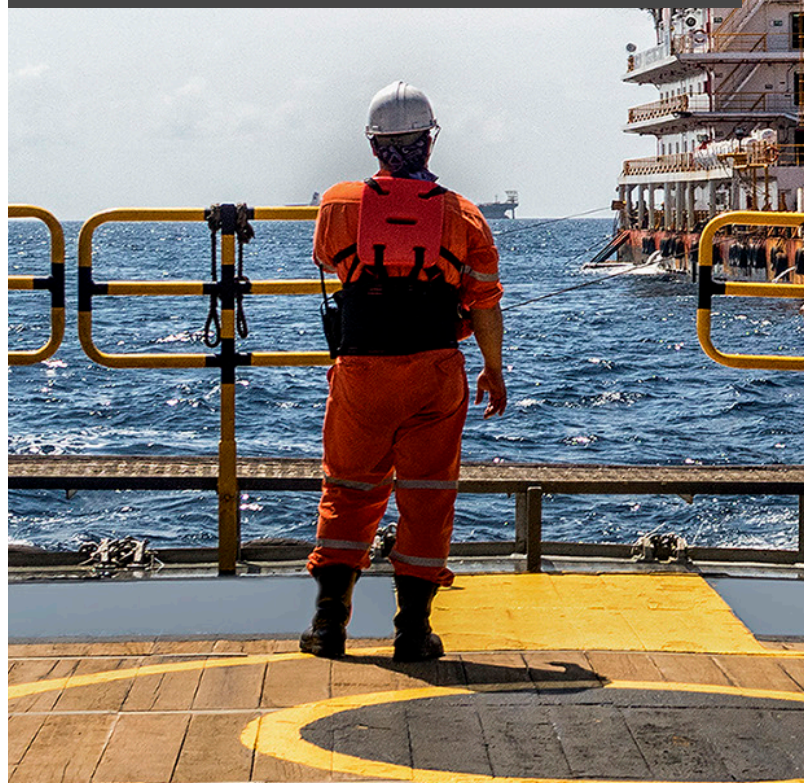
Once signed, the Petroleum Agreement must be ratified by the Parliament of Ghana and will usually specify the area that has been applied for and awarded, the exploration period, the related work program and cost, tax regime and sanctions in case of default amongst other regulations.

Petroleum (Local Content and Local Participation) Regulations, 2013 (L.I 2204).

The aim of this law is to promote the maximisation of value-addition and job creation using local expertise, goods and services and financing in the petroleum industry value chain and their retention in Ghana. The Local Content Committee established by the Board of the Petroleum Commission, is required to oversee the implementation of L.I. 2204. This local content regulation currently applies only to upstream petroleum operations. Players in the upstream petroleum sector (contractors, subcontractors, licensees, the GNPC and allied entities) are required to incorporate and carry out their business operation through a Joint Venture (JV). The parties to the JV should consist of an indigenous Ghanaian company. The indigenous Ghanaian company's equity by way of participation in the JV, should not be less than 10%. In the case of an indigenous Ghanaian company seeking to enter into a petroleum agreement or petroleum license as a contractor, the equity participation should not be less than 5%.

Incentives in the oil & gas industry

Depending on the relevant PA, some incentives or deviations from the general tax law would apply. Beyond specific taxes provided for under the PA, Contractors and Subcontractors may be exempted from certain taxes including social security contributions, Value Added Tax, and other minor levies.



Brief overview of Power and Utilities development in Ghana

Power supply in Ghana is mainly from hydroelectricity, thermal fueled by crude oil, natural gas and diesel, solar.

The power sector in Ghana is mainly dominated by government agencies (as regulators) and Independent Power Producers (IPP) which are involved in power generation, transmission and distribution.

The Volta River Authority although a state entity, is also engaged in generation of electricity and controls distribution in the northern sector of the country through the Northern Electricity Development Company. The distribution of power to the southern sector is currently controlled by the Electricity Company of Ghana (ECG).

In 2020, the President announced electricity tariff reductions for the majority of consumers while making it free for lifeline consumers as part of measures to lessen the economic impact of COVID-19 on the population.

The Ghana Grid Company (GRIDCO) manages the national transmission network and serves as an intermediary between the IPP and distributor.

In addition, there are a few bulk power distributors who supply power mainly to manufacturing and other industrial hubs.

Legal Framework

A licence must first be obtained by any person who intends to engage in a business or a commercial activity for the transmission, wholesale supply, distribution or sale of electricity or natural gas. Similarly, a licence is required in order to engage in commercial activity in the renewable energy industry.

The following legislations apply:

Energy Commission Act, 1997 (Act 541) which provides for the regulation, management, development and utilisation of energy resources in Ghana; provides for the granting of licences for the transmission, wholesale supply, distribution and sale of electricity and natural gas and related matters.

The Public Utilities and Regulatory Commission Act 1997 (Act 538) (the PURC Act) (as amended) which establishes the Public Utilities Regulatory Commission (the PURC). Included in the mandate of the Commission is the regulation of electricity tariff charges and charges on transportation of natural gas.

The Volta River Development Act 1961 (Act 46) which establishes the Volta River Authority (VRA).

Bui Power Authority Act 2007 (Act 740) which establishes the Bui Power Authority with the mandate to see to the development of hydroelectric power project on the Black Volta River at Bui, any other potential hydroelectric power sites on the Black Volta River and related matters.

Renewable Energy Act 2011 (Act 832) provides for the development, management, utilisation, sustainability and adequate supply of renewable energy for generation of heat and power and for related matters.

Energy Commission (Local Content and Local Participation) (Electricity Supply Industry) Regulations, 2017 (L.I. 2354) which aims at ensuring maximum participation of local businesses in all facets of the power industry.

Tax regime

The general tax regime applies to participants in the energy sector excluding IPP's which operate under specific tax concessions as agreed with the Government of Ghana and ratified by Parliament of Ghana. The tax concessions will affect general withholding taxes on payments to suppliers/vendors, interest payments on credit/finance facilities and VAT impact on the IPP.



If you wish to discuss further, please contact

Ayesha A Bedwei Ibe

PwC | Partner

Office: +233 (0) 302 761 500

Mobile: +233 (0) 244 813 956

Fax: +233 (0) 302 761 544

Email: ayesha.a.bedwei@pwc.com



Gideon Ayi-Owoo

PwC | Associate Director

Office: +233 (0) 302 761 500

Mobile: +233 (0) 572102176

Email: gideon.ayi-owoo@pwc.com



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