

# FAIR - TRADE OIL SHARE - GHANA (FTOS - GH) PSA CAMPAIGN



**GHANA INSTITUTE OF GOVERNANCE AND  
SECURITY (GIGS)  
GHANAHERO.COM**

**OPEN PETITION TO THE PRESIDENT OF  
THE REPUBLIC OF GHANA**

**Problem With Ghana's Oil Contracts**



# **GHANA INSTITUTE OF GOVERNANCE AND SECURITY (GIGS)**

14<sup>th</sup> February, 2017

His Excellency President Nana Akufo-Addo  
Office of the President  
Jubilee House  
Accra

Dear President Nana Akufo Addo,

## **PETITION ON THE UPSTREAM OIL INDUSTRY IN GHANA** **FAIR TRADE OIL SHARE GHANA PSA (FTOS-Gh/PSA) CAMPAIGN**

On behalf of Ghana Institute of Governance and Security (GIGS) and the Umbrella Group Fair-Trade Oil Share-Ghana PSA (FTOS-Gh/PSA) Campaign, may we congratulate you for having been elected to occupy the highest public service office, the President of Ghana.

May the Almighty Allah, God the Most Merciful, bestow his blessings and wisdom upon you, Vice President Mahamudu Bawumia, and all your ministers and appointees, and allow them to govern and lead Ghana into bountiful prosperity.

Leading us into prosperity, needs adequate amount of financial resources to be able to carry out all your promises which will impact on the social wellbeing of the masses of Ghanaians who massively voted for a change; a change that would manifest in increased standard of living and happiness.

**Raising adequate amount of financial resources is not squeezing to pay more taxes and levies on almost everything, nor borrowing heavily from outside at very high interest rates. It means exploiting and harnessing our natural resources that Providence has blessed us to wisely develop to generate the necessary funds to form the basis of our national development and economic transformation.**

We have lost as a nation on gold, diamond and many more resources.

We cannot afford to lose this time around on oil and gas. However, the indicators are already showing we are because the contract type and fiscal regime backing the exploitation of Ghana's oil and gas is similar to the fiscal regime under which gold, diamond, and other minerals have been mined over the decades.

Compared to Johannesburg and Kimberly, in South Africa, a visit to Obuasi and Akwatia, Ghana, provides dramatic and deeply sorrowful evidence of the waste that has accrued to Ghana even as so much resource have been mined and sent overseas to develop other countries for generations.

We are the National Leaders of the FTOS-Gh/PSA Campaign in Ghana. The FTOS-Gh/PSA Campaign is a worldwide Campaign launched and supported by many Ghanaians and Ghana Supporters, both living overseas in the Diaspora, and in Ghana, and having become acutely alarmed about what is happening to Ghana's Oil revenues to the extent Ghana continues to receive so little.

We have always argued that the world standard Production Sharing Agreement (PSA) which formed the basis of PNDC Laws 64 and 84, the current norm worldwide, will accrue more revenue to Ghana as sovereign owner of the oil and gas resources.

Therefore, before production began in the Jubilee Fields in December 2010, we used the Jubilee Fields fiscal data published in the Daily Graphic of 10<sup>th</sup> July 2008 by GNPC to simulate what the positions of Ghana would be in 15 years, that GNPC assumed the field would be exhausted under the PSA which the two PNDC laws support and the Royalty Tax/Hybrid System which law was not on the statute books at the time contracts were being signed.

1. **Under the Royalty Tax/Hybrid System, Ghana would lift 348,375,000 barrels of oil worth US\$20.914 billion representing 38.20% of total production. The foreign oil companies would lift 563.395,000 barrels worth US\$33.835 billion representing 61.80% total production. On the other hand, The World Bank and IMF have projected US\$19.390 billion and US\$20.269 billion respectively that would accrue to Ghana under the system for 19 years from 2011-2029, using long term base price of US\$75.00 per barrel. We used long term base price of US\$60.00 per barrel for our simulations.**

**Note: Under the Royalty Tax/Hybrid System Ghana would have to pay the lead operator Tullow, close to US\$2 billion within the 15 years as development and daily operating costs.**

2. **Under the various scenarios adopting PSA, Ghana not participating with no financial obligations would be earning the following:**

- a. **Ghana's Position under PSA without Royalty 2010-2025**

**Ghana would lift Profit Oil of 435,262,050 barrels worth US\$26.115 billion representing 47.70% of total production.**

**Foreign Oil Companies would lift 477,237,500 barrels worth US\$28.634 billion representing 52.30% of total production.**

- b. **Ghana's Position under the PSA with Royalty 2010-2025**

**Ghana would lift 453,512,500 barrels worth US\$27.210 billion representing 49.70% of total production.**

**Foreign oil companies would lift 458,987,500 barrels worth US\$27.539 billion representing 50.30% of total production.**

- c. **Ghana's Position under PSA with Corporate Tax 2010-2025 in accordance with PNDC Law 84.**

**Ghana would lift 548,686,250 barrels worth of US\$32.921 billion representing 60.10% of total production.**

**Foreign oil companies would lift 363,813,750 barrels worth US\$21.829 billion representing 39.90% of total production.**

**The simulation results immediately tell you PSA is a better option to adopt.**

For that matter, we have on numerous occasions over the last 4-plus years, before Act 919 was hurriedly passed, with our own private resources, organized workshops and conferences; made a multitude of presentations to the Ex-Presidents, the Speaker of Parliament Mr. Doe Adjaho, Parliamentary Leadership, Select Committee on Mines and Energy, Government officials, and State Institutions, the National House of Chiefs, Council of State, Faith Based Organizations, etc. about the predatory and dysfunctional nature of the Royalty Tax System. That system was transformed into the so-called Ghana Hybrid System, the basis of Ghana's current Oil contracts. It still is inimical to our interest as citizens.

So, Parliament went ahead and passed this exploitative and obnoxious Ghana Hybrid System Law which progressive leaders who care and mean well for their countries in this 21<sup>st</sup> century would not pass to regulate oil industry in their countries. In fact, South Sudan, the newest country in the world, reportedly has a superior law governing their upstream oil industry than Ghana. Angola, despite their shortcomings in their oil industry governance, is touted to have the best law in Africa by experts at the Oxford Institute of Energy Studies.

Please, Mr. President, since you are a serious and action man, we suggest you call up all the top officials in the Ministry of Mines and Energy, Petroleum Commission, GNPC, Energy Commission and their collaborators ACEP, NRGI, PIAC, IEA, IMANI Ghana, ISODEC and CSO Platform on Oil and Gas, etc., before you and in our presence ask them to name any single country on the continent of Africa that has adopted the Royalty Tax/Hybrid System and is doing better than the PSA countries.

We agree that Ghana is a Sovereign Nation and therefore can adopt any system politically expedient to her needs. However, that argument suddenly becomes a non-starter and a porous defense of an unacceptable situation created by previous officials with less than honorable interests, in our opinion.

Since you have charged us not to be mere spectators but also citizens who would actually help build our country, we are putting up this challenge and bringing this very important national issue which borders on Ghana's economic prosperity and survival, stability, and security, to your immediate attention for action.

Since August, 2014, we have issued an Open Challenge through the media to the above state institutions and their collaborators to identify African countries that have adopted the modern concession in recent times to which they have not responded to (see **Attachment 1- Open Challenge**).

We want to reiterate and state without any reservation that the Ministry of Mines and Energy, Petroleum Commission, GNPC, ACEP, NRGI, PIAC, CSO Platform on oil and gas, Think Tanks and groups headed by professors, doctors, and lawyers have used falsehood, deceit, and misinformation to brainwash many sectors of the Ghanaian public into believing that what Ghana now has is right, proper, and modern, that it protects Ghana's interests. However, most Ghanaians do not know that most of these "experts" have been hugely paid and rewarded to throw dust into their eyes.

**Attachment 2** illustrates graphically the superiority of the PSA which PNDC Laws 64 and 84 supports over the Royalty Tax/Hybrid System, clearly and vividly presented by Prof Lungu, the Executive Coordinator of the FTOS-Gh/PSA Campaign Worldwide, using the Jubilee Field fiscal terms and operational results during the first five years.

The graph shows Ghana earned a total of US\$3,111,613,783 representing 19.40% of total production revenue, while the foreign oil companies earned US\$12,868,622,163 representing 80.60% of total production revenue under Royalty Tax/Hybrid System.

If PSA was adopted Ghana would have earned US\$9,608,909,293 representing 60.10% of total revenue while the foreign oil companies would earn US\$6,371,326,655 representing 39.90%.

Available information indicates the Commonwealth Secretariat was responsible for reversing the Tsikata-Era PSA System to the revenue-losing Royalty Tax/Hybrid System, to the disadvantage and detriment of Ghana.

**Attachment 3** is an article published by the Executive Coordinator of the FTOS-Gh/PSA Campaign 16<sup>th</sup> December, 2016, with a picture depicting what is truly happening behind the scene, not in the public domain.

#### **Attachment 4. Debate on the Petroleum Exploration and Production Bill.**

Attachment 4 is a thorough analysis of Act 919 by the National Coordinator of the FTOS-Gh/PSA Campaign. It details the ill-effects of the law against Ghanaians contrary to what government officials and their "professional advocates" and collaborators may continue to tell Ghanaians, that the current law is robust, that it better protects their interests. With respect to these professional advocates, records available to us show that ACEP, NRGI, PIAC, Petroleum Commission, Ministry of Mines and Energy, etc., are also heavily funded by Western interests. Obviously, that would be

reasons enough for many of them to suppress the truth about the gains and losses, for them to be at the defence of the foreign oil companies, instead of their country.

At the minimum, these entities and professional advocates are ethically-challenged. They cannot be objective or non-partial, nor should they ever sit in judgment to decide the merit of the case in any forum, public, or private.

#### **Attachment 5. Do not pass the Petroleum Exploration and Production Bill.**

This article was published by the former Executive Secretary to Ex-President Mahama, a supporter of the PSA, in July, 2016. The paper by Dr. Atuguba agitated Parliament to such an extent Parliament passed Act 919 under a certificate of emergency, 4<sup>th</sup> August, 2016, practically the midnight before the 2016 elections.

As such, Parliament, without any doubt, has been a party to the conspiracy against Ghanaians and their country. Parliament has actually sacrificed the economic destiny and emancipation of Ghana by approving that obnoxious and exploitative Bill under what can only be described as fraudulent, deceitful, and a huge loss to Ghana.

#### **Attachment 6. The Modern Conspiracy against Ghanaians: A Prime Case for Review and Adjudication by the Supreme Court of Ghana.**

This article by the National Coordinator, FTOS-Gh/PSA Campaign, December, 2016, details our efforts to have the correct and right fiscal regime adopted by Ghana in order to allow Ghana to reap maximum benefits from the oil resources. We believe strongly that should the executive and the legislative branches in concert refuse to do right by Ghana to arrest the huge loss of revenues by Ghana, it would be appropriate to have the Supreme Court be the final arbiter of this matter.

**Attachment 7** is the list of countries in the world that have adopted PSA, by continents, earning them better than 51% for their countries, for the most part. Per our latest count, there are 34 countries in Africa that have adopted the PSA. Countries in the sub-region of West Africa include Senegal, Sierra Leone, Liberia, Togo, Republic of Benin, Cote D'ivore, Guinea, and Mauritania. In East Africa, Kenya, Uganda, Eretria, Ethiopia, and Tanzania are among the newly-emerging oil countries that have also adopted the PSA for their infant petroleum economies straight from the start. In fact, many of these countries had PSA laws on the books long before they entered into contracts with the oil companies. For example, our neighbour, Cote D'ivore, had PSA laws on their books as far back as 1975.

Therefore, the argument by government officials, the professional advocates, and their collaborators that a country has to de-risk first by using the Royalty Tax/Hybrid System before migrating to PSA is problematic, false, and deceitful. If they all were honest with themselves and Ghana, they would in fact agree that Ghana has already de-risked the Jubilee oil fields.

And so, Mr. President, it ought to interest you to know that KOSMOS and Tullow, the major operators in Ghana, are in fact operating under PSA in Kenya, Uganda, Cote D'ivore, Mauritania, Senegal, Equatorial Guinea, Congo Brazzaville, etc.

Why not in Ghana too, sir?

**Attachment 8** is a picture illustration by Executive Coordinator, FTOS-Gh/PSA Campaign, which speaks for itself. Ghana lost over US\$6 billion plus in oil revenue over the first five years which could have been used in solving problems depicted in the picture, lost opportunities.

Mr. President, something has seriously gone wrong.

We believe the previous governments and officials in charge of handling the upstream oil industry, including members of Parliament, were not really seeking the national interest and economic

security, but rather, their own personal agendas and interests. Unfortunately, the detrimental effects of their actions, inactions, and omissions have fallen brutally on their Nation, even as many of them have retired under mightily generous public subventions and retirement package, in addition to whatever back-handed bonuses they received from the oil companies while they stood behind their irrational decision not to adopt the PSA for Ghana.

This is a great scandal and havoc the leadership and authority of Ghana have wrecked on Ghanaians. It must be investigated. It must be stopped.

Our call for investigation is buttressed by the fact that the Executive Director ACEP the most consulted on Oil and Gas matters in the country has gone before the US Congress Sub-Committee on 18<sup>th</sup> July 2013 to emphatically testify that Oil contracts in Ghana are tinted with corruption. Corruption is the bane of Ghana which you promised to fight.

In the light of the above, we suggest and advise that no more oil contracts be signed under the obnoxious and exploitative Act 919 by your government until either (1) Parliament annuls Act 919 and enacts a strong Petroleum Exploration and Production bill with the PSA as the framework that seeks to allow Ghana to accrue 50% or better of all oil revenues, or (2) the Supreme Court of Ghana adjudicates and makes a pronouncement on the legality of all of the oil contracts.

Once again, since you have charged us not to be spectators, but instead, active citizens, we are bringing to you this dreadful situation about Ghana's oil revenue losses, over \$6.25 billion the last 5 years, according to our calculations, being losses suffered by Ghana under your predecessors.

Please do not allow this problem to remain a problem for Ghana.

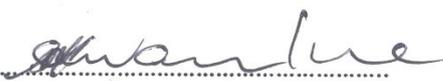
Yours in the service of Ghana,



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CC: The Vice President  
The Speaker of Parliament  
The Minister of Mines & Energy  
The Minister of Finance  
The President, National House of Chiefs  
Executive Coordinator, FTOS-Gh/PSA Campaign, World-Wide

## ATTACHMENT 1

# GHANA INSTITUTE OF GOVERNANCE AND SECURITY (GIGS)

### OPEN CHALLENGE

As a follow up to our Press Statement on the Petroleum Exploration and Production Bill 2013, released on 28th July, 2014, the Ghana Institute of Governance and Security (GIGS) is challenging the following under-listed organizations and their executives to come out and tell Ghanaians how much revenue would eventually accrue to them from the Jubilee Fields which is considered to hold 2 billion barrels of oil and 5000 billion cubic feet of gas worth estimated conservative value of US\$175 billion, that is, (2 billion x US\$75) + (5000 billion x US\$5.00 per 1000 cubic feet), under the hybrid system -THE MODERN CONCESSION - they are championing and collaborating with the World Bank, IMF, Oxfam America, Revenue Watch Institute, Star Ghana, to force down the throats of Ghanaians.

The World Bank and IMF have estimated theirs to be US\$19.390 billion and US\$20.269 billion respectively, using a long term base price of US\$75 per barrel when the field becomes exhausted. We at GIGS have also estimated ours using the same base price of US\$75 per barrel and US\$ 5 per 1000 cubic feet for gas as indicated above to be between US\$83.475 billion, representing profit oil only (47.70% of total estimated revenue), and US\$ 86.94 billion, representing Royalties and Profit oil (49.68% of total estimated revenue) as the "Minimum Government Take," excluding Profit Taxes, under the simplest Production Sharing Agreement. Note: Under this simplest Production Sharing Agreement, Ghana is not contributing a cent towards exploration, development and daily operating costs.

These conservative estimated revenue figures accruing to Ghana under the PSA fall within the 42%-60% "Minimum Government Take" range set by the US Government Accountability Office (GAO), that should accrue to any host government from total production revenue by allowing its oil and gas resources to be exploited under any fiscal arrangement or contract [(DCMNR 2006) Department of Communication, Marine and Natural Resources, Dublin, Ireland].

If the Modern Concession formula was not being manipulated by the Foreign Oil Companies, as the case is now to their advantage, Ghana should at least earn US\$66.8675 billion including taxes, representing 38.21% of the total estimated revenue of US\$175 billion, though this falls short of the base Minimum Government Take of 42%.

The price of light crude oil since production began in 2010, has been fluctuating between US\$100 and US\$120 and is currently around US\$105 per barrel.

The World Bank and the IMF estimates are 11.08% and 11.58% of the total estimated production revenue of the US\$175 billion respectively as the 'Minimum Government Take', under the current prevailing system – the Modern Concession which makes Ghana to also contribute toward development and daily operating cost. Ghana currently is required to be paying US\$150 million or more yearly to the lead operator Tullow as her share of daily operating and technical costs for participation in the project contrary to international practice. The total operating cost plus capital cost that Ghana is expected to pay over the next ten years average roughly US\$180 million per year.

This is a clear and absolute example of robberies in the name of investment Mr. Kofi Annan complained against, but our elite technocrats and political leaders do not seem to realize it. The passage of the current Petroleum Exploration and Production Bill which is in the pipe-line would amount to complete perpetuation of these robberies and a death sentence on Ghana's economic emancipation and

independence, reducing us to modern day slavery status. We say a BIG NO to selling Ghanaians down the river all over again.

The organizations being challenged are:

1. Africa Centre for Energy Policy (ACEP).
2. Ghana's Oil and Gas Technical Committee.
3. Institute of Economic Affairs
4. Centre for Economic Policy Analysis
5. Oxfam America
6. The 135 CSO Platform on Oil and Gas
7. Oil Watch Ghana
8. Ghana National Petroleum Corporation (GNPC)
9. Energy Commission
10. Petroleum Commission
11. IMANI Ghana
12. ISODEC
13. Friends of the Earth
14. Friedrich Ebert Foundation
15. Select Committee on Energy and Petroleum
16. Select Committee on Finance
17. Ministry of Finance
18. Ministry of Energy and Petroleum

We challenge them, in addition, to publish the list of countries in Africa producing oil in recent times under the Modern Concession.

Ghanaians are waiting for your answers. Please DO NOT take forever to respond.

Solomon Kwawukume  
Senior Research Officer  
Oil & Gas, GIGS

Note: This article takes precedence over our earlier publication due to the revision and evaluation of the Gas deposits.

26th August, 2014.



# Fair-Trade Oil Share—Gh Production Sharing Agreement (PSA)



The Petroleum Exploration and Production Bill

Ghana Hybrid System

Why Ghana the Star of Africa?

