

Ghana Oil Contracts



Ghanaians Need to Know About Ghana's "Garbage Oil Law" (With)



16 Prescriptions for Standard Minimum PSA Fiscal Regime

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Ghanaians Need to Know About Ghana's “Garbage Oil Law” (Part 1-2-3)

With

(Minimum Prescriptive PSA Standards for Model Agreement)



By

Dr. Kofi Newman, Andy Kwawukume, J. Y. Fiebor (MBA)

FTOS-Gh/PSA Campaign

(Fair Trade Oil Share Ghana Production Sharing Agreement Campaign)

(Papers Published During November – December, 2024)

Ghanaians Need to Know About Ghana's “Garbage Oil Law” (Part 1-2-3)



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Cover Letter



CENTRE FOR NATURAL RESOURCES AND ENVIRONMENTAL MANAGEMENT (CNREM)

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His Excellency President of the Republic of Ghana
John Dramani Mahama
Jubilee House
Accra

8th January, 2025

Dear His Excellency President Mr. Mahama,

APPEAL FOR ADOPTION OF STANDARD MINIMUM PSA FISCAL REGIME FOR
GHANA'S OIL CONTRACTS FOR MAXIMUM BENEFIT FOR GHANAIANS AND FAIR
RETURNS FOR OIL COMPANIES.

We of the FTOS-GH PSA Campaign, home and abroad, operating under the auspices of the Centre for Natural Resources and Environmental Management (CNREM) seize this opportunity to wish you a hearty congratulations on your resounding victory, and return to the high office of the Presidency to steer the affairs of our dearly beloved country, Ghana, for the next four years. We wish you even a more resounding success in your stewardship.

We believe that one key element in achieving that success in energy policy is immediately annul/amend Act 919, which we now understand you approved without the benefit of selfless advice and honest guidance by those you entrusted the task. We do not make this claim lightly.

Recently, we were compelled to respond to what we considered as yet another unfair assault on our National Co-ordinator in Ghana; this time, by no less a person than Tsatsu Tsikata, Esq. Two copies of our 3-part response is hereby being humbly submitted to your high office for your kind perusal and subsequent action to address this urgent national issue related to Ghana's oil revenues.

Your Excellency, we believe that most Ghanaians will agree with recommendations found on Pages 28-29 of the paper, sub-titled, "GHANA OIL CONTRACTS: 16 PRESCRIPTIONS FOR STANDARD MINIMUM PSA FISCAL REGIME," tailored to ensuring Ghana receives a fair share of its own oil wealth (Atch 1). Our humble request is that the government adopt at least the proposed minimum standards and actions for all future oil contracts.

We are ready, backed by top Ghanaian and non-Ghanaian industry consultants in the United States and Europe, to assist your government to achieve the optimum best results for Ghanaians to turn our hydrocarbon and minerals resources into a boon for Ghanaians; not cash cows for foreigners and a few Ghanaians acting as fronts for them.



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In the service of mother Ghana.

Yours faithfully,

17 Jan 2025

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16 January, 2025

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14 JAN 2025

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On behalf of the FTOS-GH PSA Campaign (Global)

ATTACHMENTS:

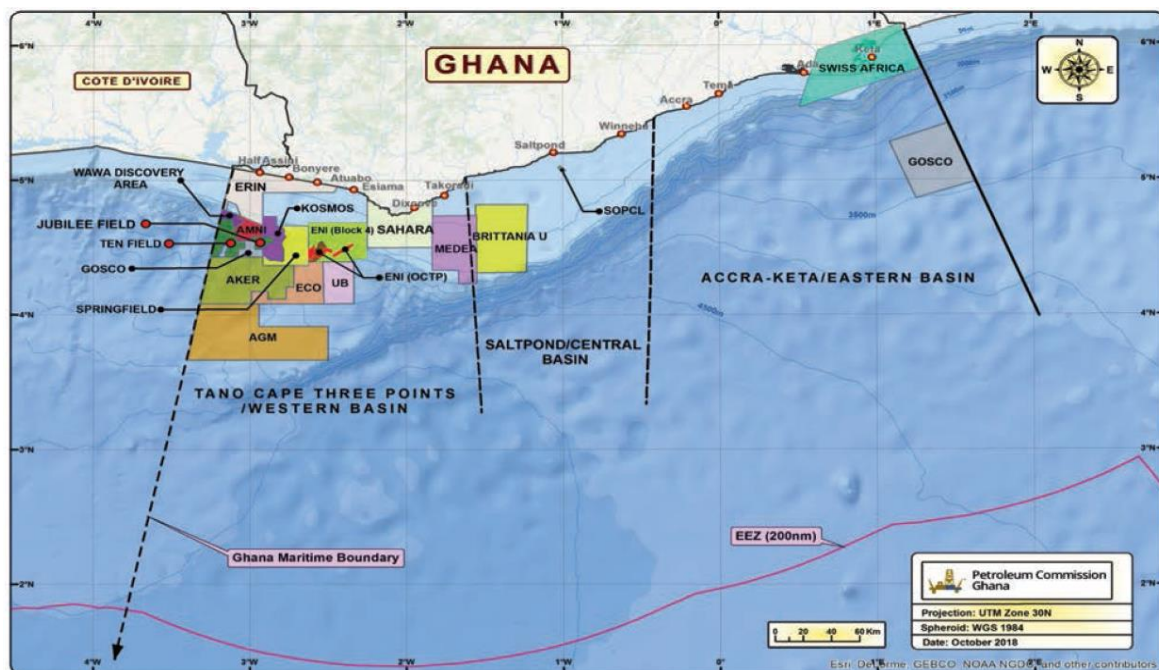
1. Ghana Oil Contracts: 16 Prescriptions for Standard Minimum PSA Fiscal Regime
2. Ghanaians Need Know About Ghana's Garbage Oil Law (Part 1-2-3)
3. List of Public Interest Agencies, Media, and Other Entities to Serve Notice of Communication.

Ghanaians Need to Know About Ghana's “Garbage Oil Law” (Part 1)

By
Dr. Kofi Newman & Andy Kwawukume
FTOS-Gh/PSA Campaign

This 3-part paper is being presented to Ghanaians on behalf of the Fair-Trade Oil Share-Gh PSA (FTOS-GH/PSA) Campaign, overseas branch. For more than 13 years, the campaign has advocated for the consolidation of the world standard Production Sharing Agreement (PSA) or Production Sharing Contract (PSC), a fiscal regime model adopted in PNDCL 84, for Ghana’s hydrocarbons; but, NPP and NDC politicians and their appointed decision makers decided to ignore us. At the start, we wish to inform the reader that neither this campaign nor any of its members receives, or has ever received, funding or any other type of support from any entity, organization, or government, for the campaign’s advocacy actions and publications.

IMAGE: Ghana’s Off-Shore Oil Blocks and Prospecting Zones



SOURCE: Public Interest and Accountability Committee – 2022 Citizens’ Version – Annual Report

While prospecting and exploration of oil in Ghana predated the founding of the NPP and NDC political parties, it is the NDC and NPP that engineered and foisted a royalty oil management system on Ghana, resulting in huge loss of revenue to the public. Actually, in order to ensure Ghanaians receive fair share of oil revenues as sovereign owners of the resource, commensurate with the already substantial public expenditures for exploration and collection of seismic data on Ghana’s oil fields, the PNDCL 84 mandated PSA-type oil contract system for Ghana was the obvious choice. Under this, Ghana does not need to further invest in the development and extraction of the oil and gas being discovered (unless it wanted to take additional shares known as “participating interest”), contrary to the outright falsehood or misunderstanding being bandied

around that Ghana must further invest in order to get any shares, and Ghana does not have money to invest. That is not the case under a truly competitive PSA.

In fact, Ghana would have started gaining even before the first oil. Under any truly competitive, arms-length, oil block award system, where negotiating officials are in fact protecting the public interest and not their self-interests, careers, etc., every model and final PSA contract contains a clause on a signing bonus for the benefit of the sovereign state, paid to the state's bank account.

Bonuses are a prominent feature of every PSA contract/model we have reviewed, except for Ghana.

The South American nation of Guyana (population 830,000) received \$18 million in PSA signing bonus from Exxon-Mobile and their sub-contractors – simply for signing and awarding initial round of contracts on oil blocks off-shore Guyana. (Drilling of oil actually would not begin in Guyana until 2019, 3 years after the payment of the bonus).

So, here is a question every Ghanaian ought to ask of Ghana's elite oil contract negotiators, as the year 2024 comes to an end, 14 years after first oil in 2010: From Cape Three Points, to Deepwater Tano, to Off-Shore Keta Delta, to South Deepwater Tano, to Jubilee, etc., how much, tell us, Ghana Petroleum Commission, has Ghana gotten in bonuses for signing contracts and awarding oil blocks since 2006, and after drilling of oil in commercial quantities began in 2010?

Instead of oil being such a boon to Ghana, Ghanaians now have a system of oil contracts the elites in government call "Royalty Hybrid System," and tax laws that have resulted in huge loss of revenue to the public account over the years, as we had noted, informed the GRA under the whistleblower law, and even went to court to have investigated.

The reader should know that the foreign oil companies (FOCs) themselves (among them KOSMOS, TULLOW, ENI, etc.), have long represented through various filings at the United States Securities and Exchange Commission (SEC), reports to investors and other parties, that the entire Ghana prospective petroleum profile has long been significantly de-risked, with expectations of even higher profits.

And so, following the just-ended Centre for Social Justice (CSJ) 14th Leadership Dialogue Series held on 28th August, 2024, at the University of Ghana School of Law, we are yet again compelled to address some pertinent issues in response to current developments, specifically focusing on Act 919, a law that was characterized as "garbage" at a conference in Ghana, in 2017. We are in addition providing a general update of the FTOS-Gh Campaign to politicians, our supporters, and Ghanaians, at large.

For reference, the 28 August CSJ event, chaired by Dr. Christina Amoako-Nuama, was graced by several eminent personalities including Dr. Sodzi Sodzi-Tettey, Prof. Akilagpa Sawyerr, Prof. Percy Whyte, CEO of Stratcomm Africa and PR Madam for the FOCs and the wife of Mr. Tsatsu Tsikata, Esther Cobbah. Mr. Tsatsu Tsikata Esq, a lawyer and retired law lecturer, was the featured keynote speaker at the CSJ conference. His presentation was titled "Can Ghana Rise from the Ashes?". Mr. Tsikata previously served as the founding CEO of GNPC. In attendance too was our very own Mr. Solomon Kwawukume, National Co-ordinator and CEO, Centre for Natural Resource and Environmental Management (CNREM).

We regret to inform Ghanaians that the Petroleum Exploration and Production Law, Act 919, was passed almost at midnight on 4th August, 2016, without the benefit of adequate light. It is that oil governance law that was declared "garbage" at the conclusion of the 2017 International Ghana Oil

Conference organized by the Lada Institute in conjunction with Open Society Foundation and the IBIS-Education for Development, at Labadi Beach Hotel, on 12th January, hosted by Professor Raymond Atuguba, Dean of the Faculty of Law, University of Ghana, Legon. The 2017 conference was attended by energy law authorities, professors, and other experts, among them:

- Professor Lucie White, Harvard Law School
- Wilham Forbath, Associate Dean of Research and Lloyd M. Bensten, Chair in Law, University of Texas School of Law
- Professor Dennis Davis, University of Cape Town, and Judge, South Africa
- Professor Louis A. Horvitz, Harvard Law School
- Other experts from Tanzania --
- Mr. Tsatsu Tsikata, Esq. (attended briefly)
- Professor Raymond Atuguba, Dean, University of Ghana School of Law (Host/Convenor)

The characterisation of Act 919 is what our able and indefatigable lead advocate, Mr. Solomon Kwawukume, one of the two attendees privileged to pose a question, tried to draw the attention of the CSJ audience to, during the brief question-and-answer session, before he was abruptly interrupted. The sudden interruption appeared to create an impression in the minds of the CSJ audience that the “garbage” epithet for Act 919 was a Harvard University professor’s tag. That is not the case, or the record. That was one of the conclusions of the conference. Actually, earlier in the session, Mr. Tsikata criticised some aspects of the Act 919 that capped Ghana’s sovereignty and ownership rights. As such, he is definitely aware of the clauses of Act 919 signed by former President John Mahama. Tsikata also observed that Kenyans once asked him about what the Ghana Hybrid System (foundation of Act 919) was, and he, Tsikata, told them to concentrate on their Production Sharing Agreement (PSA). That was good a advice and counsel. The PSA Agreement Tullow signed with the Kenyans gives Kenyans 60% of the shares, of which 5% government’s revenue share will go to the local Turkana community and 20% to the county government!

The FTOS-Gh PSA/Campaign fully agrees with the characterization of the Petroleum Exploration and Production Law (2016), Act 919, as “garbage” and have supported that position in writing and other manner of advocacy. (See “Reference” for links to some of our published reports).

A fact acknowledged by the Labadi Beach Hotel Conference in 2017, still remains.

Ghana has only gotten a mere pittance of all the millions of barrels of oil extracted since 2010 by the FOCs. Those companies are “managing” and exploiting Ghana’s oil reserves under the current Hybrid System. In fact, those companies are technically not “contractors” consistent with world standard PSA contract system.

Further, as far as we can tell, while acknowledging that Ghana’s oil revenues have risen and dipped due to world market conditions and operational constraints, Mr. Tsikata neglected to present comparative data or provide any information on “Ghana-Take” versus “Foreign Oil Company-Take,” during his keynote address, though he narrated foibles the sector is facing under the additional mismanagement of the NPP administration. This was a hugely important omission on a talk about Ghana rising from the ashes where income from depletable oil wells is a significant factor. The big omission does suggest to us that Mr. Tsikata, for reasons best known to him, has determined and concluded that Ghana is already receiving fair-share oil.

However, we of the FTOS-Gh/PSA Campaign beg to strongly disagree based on the data.

We can support our position with data analysis showing that Ghana had received less than 22% of the total oil revenue as of 2016, contradicting claims made in presentations by the technocrats that Ghana would be receiving over 40%. Adding recent data, our review of 2010-2020 data shows that Ghana earned only \$4.735bn out of a total of \$23.30 billion, representing 20.31% of total revenue. We intend to publish additional data and information on the estimated losses to Ghana under the hybrid system, which we have captured annually since first oil.

But one thing is still certain: Neither the GRA, the Petroleum Commission, Audit Service, nor the Bank of Ghana, have reported receiving a single pesewa in Oil bonus money on behalf of Ghanaians, even though many more oil contracts have been signed on behalf of Ghana since 2015.

And so, even as the attention of elites and ordinary Ghanaians now appear to demand immediate response by government on the destructive menace and harm of galamsey, we want to present this as a further proof of how the mass of Ghanaians are being ripped off by colonial-style, obnoxious, and exploitative laws in Ghana's oil sector, facilitated by a group of elites and politicians of various stripes.

The "garbage" oil law is in the fact that Ghana is not receiving anything near fair government take or share for the oil we are supposed to be the sovereign owners of. Ghanaians should not continue to accept the current, exploitative situation because there are better options along the lines of strong PSA contracts that other states (Angola, Guyana, Kenya, Uganda, Nigeria, etc.) have adopted, that Ghana could adopt.

The FTOS-Gh PSA Campaign's able, lead advocate, a former senior accountant at Texaco Head Office in Accra in the 1970s and later, a senior lecturer in Petroleum Revenue Management Accounting and Oil Profit Taxation at the current Lagos State University years before GNPC was established, is himself an authority on this subject. He is the author of the book, *Ghana's Oil and Gas Discoveries: Towards Full Maximum Benefits*. Revised edition published in 2012, is the first publication to address the current oil discoveries in Ghana. Mr. Kwawukume, being in agreement with eminent scholars on oil and gas and lawyers, has been warning Ghanaians about the hybrid bill for years, actually before that fateful "midnight".

We all believe that Act 919, almost akin to a "Nigerian-419 scam," is a "garbage law" that no right-thinking African should implement or copy in this C21st. Readers who were in attendance at the CSJ conference and those who have seen the video of the proceedings will recall that our lead advocate did not say that all the laws of Ghana were "garbage," contrary to what Mr. Tsikata seemed to convey to the audience, citing what Prof. Akilagpa Sawyerr had done in other cases, especially VALCO. Humbly, Prof. Sawyerr's opinion on Act 919 is what counts, and is the more relevant. Unfortunately, as of this writing, Prof. Sawyerr is not on record as having expressed an opinion on the case at this stage, as far as we know.

In view of the foregoing, the FTOS-Gh PSA Campaign welcomes additional talks from the CSJ, IMANI, IEA, TUC, PIAC, Petroleum Commission, ACEP, GNPC, Council of State, National House of Chiefs, and any other bodies interested in the subject because we believe that it is mighty important to Ghana. We would be glad to take on not only Mr. Tsatsu Tsikata, but also all those who support the obnoxious Act 919. We threw many of them open challenges, and in the past provided information and responses to the Petroleum Commission, various Councils of State, and several sessions of Ghana's Parliament, with some success with respect to our rationale.

Many of those we challenged in the past now agree with our position, we must now point out!

Our campaign for the current government (and the NDC – now out of power), to consolidate the existing PNDCL 64 and 84 into a strong PSA fiscal regime with a permanent bonus clause and higher oil shares that he, Mr Tsikata, and his team at GNPC crafted, is fully backed and supported by top Ghanaian consultants in oil and gas resident in the US, and many prominent Ghanaians, such that we are not intimidated by any means.

Opponents of the PSA cannot merely state that contract types are just “labels”, and that one can achieve the same results with any, when one is clearly a fraudulent and at best an ineffective approach to the question of higher revenues for the sovereign state.

The data does not lie!

What, after all, are the “substances” that preclude Ghana from instituting and maintaining the strongest PSA fiscal model that all other new African countries entering the oil field are adopting? What is special about Ghana’s situation? More to the point, what are the “substances” in Act 919 that causes it to be superior to a straight-forward PSA model based on transparency, competition, and administered arms-length?

We’d like to know answers to the above questions, as we do not see anything to warrant the acceptance of the boondoggle Act 919, a law the FTOS-Gh PSA Campaign has now appropriately characterized as a “419-Oil Money Scheme” for Ghana’s depleting oil wealth.

In Part 2 and Part 3 of the paper, we therefore would like to dig a little deeper into why Act 919 was adopted and underscore these additional eight (8) questions and other important points, though not necessarily in the same order, including:

1. A common fallacy among many Ghanaians
2. The FTOS-Gh PSA Whistle-Blower Case
3. Globally accepted standard oil contract types, why the PSA is superior under equal sovereign technical expertise and commitment to transparency and the national interest
4. Summary of FTOS-Gh PSA Campaign past interactions, complaints, open letters to Ghanaian officials, etc., and manipulated media neglect and silence on loss of oil revenues to the nation
5. Estimates of Ghana’s Take from Fair-Share Oil under competitive, arms-length negotiations and awards of oil blocks
6. FTOS-Gh PSA suggested path to recovery, recommendations, what average Ghanaian can do
7. Ethical considerations and truth in advocacy and defence of positions by persons, agencies, and groups.

We thank you for paying attention to this important subject.

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(<https://www.modernghana.com/news/720164/debate-on-the-petroleum-exploration-and-production-bill-does.html>).
2. Petroleum Exploration And Production Law (2016) Act 919: The Modern Conspiracy Against Ghanaians: The Need For Review And Intervention By The Supreme Court,
(<https://www.modernghana.com/news/742747/petroleum-exploration-and-production-law-2016-act-919.html>).
3. Withdraw "Ghana Hybrid System" oil bill from Ghana Parliament. Approve Production Sharing Agreement (PSA) for more revenues for Ghana's crude Oil!, (<https://www.change.org/p/ghana-fair-trade-oil-share-psa-campaign-ftos-gh-psa>).
4. Petroleum Commission's hybrid system is \$29 million rotten!,
<https://www.ghanaweb.com/GhanaHomePage/features/Petroleum-Commission-s-hybrid-system-is-29-million-rotten-423352>).



SUBJECT: Ghanaians Need to Know About Ghana's "Garbage Oil Law" (Part 1)

AUTHOR: Fair Trade Oil Share-Ghana (FTOS-GH Campaign Ghana/UK/USA

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- Andy C. Y. Kwawukume, Cand. Polit, UK_
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NOTE: This paper focuses on Ghana's oil contracts, production, and revenues – actual and potential. No aspect of development and production of gas is directly addressed.

For Press//Dated: 17th October, 2024.

Thank you.

GHANAISANS NEED TO KNOW ABOUT GHANA'S “GARBAGE OIL LAW”, (PART 2)

By

Dr. Kofi Newman, Andy Kwawukume, J. Y. Fiebor (MBA),
FTOS-Gh PSA Campaign

In Part 2 of this series, we highlight several deficiencies we've identified in oilfield contracts that were effective between Ghana and FOCs (foreign oil companies) during 2004 – 2018, recognizing that the first-level controlling legal statutes are PNDCLs 64 and 84. However, contrary to these, government policies have continued to foister a neo-colonial Ghana Hybrid oil fiscal system that does not guarantee a fair share of oil revenues for Ghana, that was not even the law until the fateful day in August 2016 when the garbage law Act 919 was passed to retroactively back the illegalities. We note that no current or former president ever announced that Ghana has ever had its fair share of oil revenues since 2010, when oil began to flow in Ghana. We analyze dubious, unhinged, and bewildering statements by former and current officials who now berate Ghana Revenue Authority (GRA) for doing their job; who are demanding that Ghana allow the FOCs more freedom and even greater share of oil revenues to entice them to remain or invest; who have gone around the country misinforming Ghanaians that Ghana does not pay a pesewa for exploration, development, or production of oil so that the FOCs are actually entitled to what they are taking, and are doing us a favour by giving Ghana something, at all. (Sadly, some of the same issues affect the larger Ghana minerals sector, and is not limited to just petroleum/oil).

On 7 November, 2024, Graphic Online published a news story sourced to theguardian.com titled, “Guyana citizens to receive £370 each in payouts from ‘mind-boggling’ oil wealth.” Oddly, Graphic, Ghana News Agency (GNA), and most Ghanaian press and media have long neglected to publish papers by the Fair-Trade Oil Share-Gh (FTOS-GH) PSA Campaign. It is no surprise to us that Graphic Online has, as far as we know, not bothered to also inform their readers that FOCs have paid Guyana \$18 million in bonus simply for signing contracts before a drop of oil was ever extracted/lifted in Guyana. Graphic could ask: Where are the Oil Bonus Cheques, Ghana?

Therefore, the issue why Ghana has not received a single pesewa or dollar in oil signing bonus is one all objective Ghanaians, regardless of political affiliation, should ask of every current and former member of Parliament, every current and former President, every current and ex-political appointee and leader at the Ghana Petroleum Commission, Ghana National Petroleum Corporation (GNPC), Public Interest and Accountability Committee (PIAC), and Ghana Revenue Authority (GRA). You see, as we discussed in Part 1 of this series, bonus payments are a key essential feature of any PSA contract for sovereign oil worth the name.

Moving on with Part 2, we, the members of FTOS-Gh PSA Campaign Team, want Ghanaians to know that we are neither against foreign investments, nor do we think Ghanaians, being sovereign owners of the natural resource, expect favours from oil companies, including foreign-owned. We believe that as owners of depletable natural resources (oil, in this case), Ghanaians expect prudent and arms-length ethical negotiations that yield to Ghanaians fair and equitable share of oil revenues for sovereign Ghana (as owner-cum investor) and the FOCs (as operators and lessees). This is best accomplished under a transparent and effective fiscal system that faithfully adheres to current law

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Ghanaians Need to Know About Ghana's Garbage Oil Law (Part 1-2-3)
With Minimum Prescriptive PSA Standards for Model Agreement

and balances Ghana's economic needs and the nation's development objectives on the one hand, and the economic interests of the oil companies on the other. That should be an important pillar for Ghana's National Development and Socio-Economic Transformation through the rejection of neo-colonial artefacts and paradigms that continue to impede Ghana's development agenda, progress, and sovereignty.

In recent days, following Mr Tsatsu Tsikata's keynote address at the CSJ Leadership Dialogue event titled, "Can Ghana Rises from the Ashes?", several current and former public officials have resorted to issuing uncoordinated, dubious, and bewildering statements about the need to allow the oil companies more freedom and even greater share of Ghana's oil revenues.

Of note:

- (1) Mr. Egbert Faibile, currently at the Ghana Petroleum Commission, says there is a "need" to reduce Ghana's statutory 15% participating interest in oil development in order to attract more foreign investments. Mr. Egbert Faibile neglects to inform Ghana that the GNPC actually pays the FOCs fully for the cost of that development, after exploration. Further, as many attentive Ghanaians are bemoaning the decline in oil revenues, Egbert Faibile did not take time to inform his audience that the 15% participating interest currently provides the greatest share of oil revenues for Ghana (59%), compared to royalties (24%), corporate income tax (15%), surface rental (0.13%), etc. Considering that beyond revenue the participation interest goes towards building the capabilities and capacity of GNPC, is Egbert Faibile seeking to transform GNPC professional staff into a cadre of inspectors of oil company documents they may even be ill-prepared to understand? (Our analysis of royalty payments showed that the PC was previously wrongly calculating money due Ghana, resulting in loss to Ghana, which is discussed below, in this paper).
- (2) Mr. Samuel Atta Akyea, former Chairman of Mines and Energy Committee, and MP for Abuakwa South Constituency, blames and chastises the GRA for doing their job because the GRA is demanding from Tullow Oil refunds and payments for unearned "...capital allowances, expenses, and tax exemptions". Mr. Akyea is wrongly crediting the "decline in petroleum production" to the "unpredictability of Ghana's regulatory environment", which sounds to us like a Tullow/oil company talking point. However, given that Tullow Oil found it convenient to send the case to international arbitration in the UK, a foreign country without prior notice to Ghanaians, this Akyea assault on the GRA should be seen as totally without merit. How is it that Mr. Akyea is unable to grasp that the GRA is merely trying to correct errors and omissions some of which actually predate his assumption to that "honorable" office in Ghana's Parliament? We would ask the same question of all former and current officials who have had a hand in foistering the ineffective, neo-colonial Ghana Royalty-Hybrid system on Ghanaians. As we've shown many a time, Ghana's economy and development plans would have benefited more from a robust Production Sharing Agreement that was fully compliant with current law, is transparently administered and widely published in the international press for the awareness of all competing FOCs.

And so, we say a big kudos to GRA staff and lawyers working on the Tullow matter now at the International Chamber of Commerce in the UK, or in Ghana. Staff must know that Tullow actually does not have a good record in court. To the point, Tullow Oil and its Ghana subsidiary lost two cases back in 2018 in those same courts:

- a. Tullow Oil Ghana Limited (Tullow) vs Seadrill Ghana Operations Limited (Seadrill) (2018). (Tullow loser)
- b. Tullow Ghana Limited (Tullow) vs Kosmos Energy Ghana HC (Kosmos), "in relation to share of the liability of costs related to the West Leo rig" (Tullow loser).

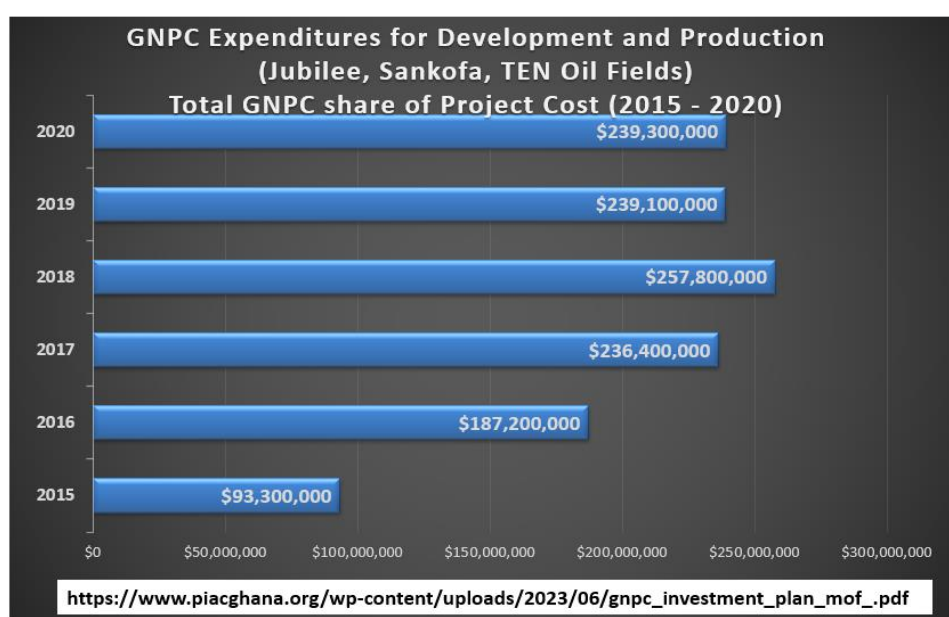
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(3) Recalling GNPC Staff – Mr. Osei Afriyie (IFEJ Documentary on Keta Basin Petroleum Exploration Sensitization Event, 2017) as an example of government officials who have been working against the interest of Ghanaians by feeding them blatant lies. We are aware that the World Bank, Oxfam America, STAR Ghana, DFID, NRGI and others were actively behind the passage of the Petroleum Exploration and Production Law (ACT 919) that continues to rob Ghanaians of our oil wealth in the name of attracting investment in favour of foreign, vested interests, and their local collaborators they founded and/or funded. This theft of oil revenue continues to occur under a litany of blatant lies, calculated deceptions, and concealment of information from the chiefs and people of Ghana, too. Much of the deception is now in the public domain as represented in a video of a 2017 Keta basin petroleum exploration “sensitization” event for citizens. During the event, GNPC staff, in response to a question by a citizen (Mr. Freedom Vitashie) repeated the blatant falsehood some current and former government officials have been feeding the nation -- that Ghana is only getting a little share of the Jubilee oilfields revenues because Ghana does not contribute a single pesewa to produce oil, that all risks are borne by the FOCs, saying:

"Ghana, we don't add one pesewa. The current oil that we are producing that we are fighting for...we didn't contribute one pesewa. It is by virtue that we signed good agreement...We have Petroleum Commission that oversees everything that we do...", (Mr. Osei Afriyie, GNPC Staffer, IFEJ Documentary on Keta Basin Petroleum Exploration Sensitization, 2017).

The chart below disproves the GNPC staffer's statement that Ghana does not contribute a single pesewa toward the production of Ghana's oil. Between 2015 and 2020 alone, GNPC spent nearly \$1.3 billion (\$1,253,100,000 to be exact) on development and production activities associated with Jubilee, Sankofa and TEN Oil fields. For the Jubilee Field alone, the grand total expenditure by GNPC from 2011 to 2020 was \$683,644,478. Again, recall that the GNPC has been in existence since 1984, and was actually created out of a then-existing public agency - the Ministry of Fuel and Power. Whichever way you look at it, the stupendously over-inflated exploration, development, and production cost of Ghana's oil, compared to similar projects elsewhere in Africa and the rest of the world, is another matter worthy of consideration and discussion by the public.



Unfortunately, nobody from the GNPC or Petroleum Commission took time to correct Mr. Afriyie at that Keta “sensitisation” forum. How any GNPC staff member working in that agency that was established in 1984 with a mandate for oil exploration and development could inform citizens the government does not pay a pesewa for oil production is a good question Graphic and the media could ask of GNPC and their staff.

- (4) Errors in Collection & Reporting of Royalties by Petroleum Commission: Then, there is this small matter of errors committed by the Ministry of Finance and the Petroleum Commission in the calculation of amount of royalties Ghana reported receiving. In a presentation to Ghana’s Parliament in 2016, the Petroleum Commission made statements that were wrong and misleading regarding royalties paid to Ghana by Tullow and Kosmos. This is in regards to the Deepwater Tano (DWT) & West Cape Three Point (WCTP) contract areas. At a minimum 5% royalty, Ghana ought to have received \$300,000.00 more than was reported for the period 2010 through 2014.

In the presentation to Parliament (See Petroleum Commission “OVERVIEW” data in below chart), the errors were found to be related to collection of royalties after certain operating expenses by the FOCs, rather than from gross revenue, which is the correct way. For any and all PSAs worth that tag, royalty is collected from the top – before any expense (See direction of Arrow in the Chart). The Petroleum Commission utilized the same erroneous methodology in estimating future “Ghana-Take” when the price of a barrel of oil would be \$60.00, versus \$80.00 per barrel. For compliance and accountability, royalty must be taken from gross oil production, before OPEX, per terms of the contract between the Government of Ghana and the foreign oil company (Tullow, Kosmos, etc.). As far as we know, the Petroleum Commission did not return to Parliament to provide additional clarification on this matter.

Petroleum Commission Overview: Ghana’s Oil and Gas Fiscal Regime (Clarification Meeting With Parliament) (20 Feb 16)

Table 1: Actual Ghana Government Take (2010-2014)

Revenue		Project	Government of Ghana	Contractor Group
Gross Revenue	\$MM	13,441.03 ^a	1664.52	11,776.51
OPEX	\$MM	1,356.38 ^a	171.17	1,185.21
Exploration & Appraisal CAPEX	\$MM	1,276.00 ^a		1,276.00
Development CAPEX	\$MM	5,872.90 ^a	197.83	5,675.07
Total Project Cost	\$MM	8,505.28 ^a	369.00 ^b	8,136.28
Surface Rentals	\$ MM		2.15 ^c	
Royalty	\$MM	641.76	641.76 ^c	641.76
Corporate Income Tax	\$MM	501.50	501.50 ^b	501.50
Additional Oil Entitlement	\$MM	0.00	0.00	0.00
Before Tax NCF	\$MM	4,935.75	1,295.52	3,640.23
After Tax NCF	\$MM	4,935.75	2,440.94 ^b	2,496.96
State/Contractor Take	%		49.45%	50.59%

^aInformation from Ministry of Finance Petroleum Revenue Reports
^bInformation from Kosmos and Tullow Cost Statements for the DWT & WCTP Contract Area
^cGross revenue calculated using weighted average of crude oil prices realized by the Ghana Group for liftings.

<https://s3.amazonaws.com/rgi-documents/3a04661605a0fd75bed6112929d88880015c62c8.pdf>

When these kinds of disgusting lies, errors, and propaganda that require no degree in law, accounting, or public policy to properly label as bogus, faulty, and suspicious, were challenged in a public forum on Ghana's oil and economic development by Mr. Solomon Kwawukume, our National Coordinator, he was asked to apologise to some of the same liars, which he rightly refused. Because of that, he was denied permission to present our case even though he was officially invited by organizers of that event. The liars must now apologise to Ghanaians for causing humongous financial loss to the nation. Ghana is actually contributing billions of dollars towards the Jubilee Fields (and the others), having funded all costs of exploration and acquisition of seismic data - the first stage of oil extraction - since 1984; actually, since Kwame Nkrumah's presidency, and prior, to the days of the Gold Coast Geological Survey (GCGS), as far back as 1913. It is only diabolically devious officials in the pay of neo-colonialist profiteers and filibusters who can go around telling lies that Ghana is not contributing to winning the oil. We're saying Ghana does not need to contribute beyond what Ghana is already contributing and still be entitled to at least 60% of the oil extracted, just as in most African countries.

In sum, by depriving Ghana of PSA and higher rates of revenues (royalties, carried participation interest, domestic market obligation (DMO), bonus, etc.), it appears some current and former government officials decided to transform Ghana's Oil Fields into a cash cow for the FOCs for what they could get and, indeed, got out of it, for themselves, for their families, and for friends. For instance, it has been widely reported in the press that about 5% "free" shares of the Jubilee Fields were shared between the EO&E Group who got about 3%, and about 2% for President Kufuor through Sabre Oil (the front company he set up, which shares were later sold to KOSMOS and then to Petro SA of South Africa). And there were sweet deal contracts in the millions of dollars like the one Mr. Tsatsu Tsikata received, which he conveniently left out as a contributory factor to the raw deal Ghanaians are receiving at the recent event where he was the keynote speaker on the evolving Ghana oil curse and "ashes". We speculate access to GNPC hierarchy (he was after all the former CEO of GNPC) could have assisted Mr. Tsikata in scoring that contract. Or maybe, the contract was consolation to pacify him for his wrong imprisonment, to buy his silence, considering the wife was reportedly also handed the plumb PR for the FOCs job. Perfect cooptation into the ranks of the neo-colonial comprador bourgeoisie, with the Bible in one hand to mesmerise the masses. Smart, isn't it?

Finally, there are the self-serving reports by the FOCs (Tullow, for example) touting their corporate social responsibility programs and expenditures (providing computer tablets, dormitory blocks, desks, for Ghanaians and some communities), reportedly worth about \$1b, with hardly any projects in Ghana worth half of that amount to point to. And then, there is GNPC and their profligate spending, for what, most Ghanaians have no knowledge or clue. As New Patriotic Party (NPP) MP Mr. Takir A. Hammond once remarked while also complaining Ghana's parliament has no power to sanction GNPC, oil dollars were thrown at some people and projects like confetti:

"...We do not understand this...how some of these decisions are taken. You will recall I raised it...so much money was given to people who have left the corporation so many years ago...money in their hands has become something like confetti, splashing it all over the place", (February, 2016).

Could it be that this other big defender of the Ghana Hybrid System, Mr. Takir A. Hammond, was now fed up and felt he had to complain about the Tsikata contract and his golden parachute on account the same GNPC would have had to sign off on that "deal"?

Yet another matter is the new Tullow Oil practice of approving sweet deal sole-source contracts such as the Bumpty-engineered/backed \$150m contract that Mr. Kevin Taylor exposed in a recent

video. How a routine oil facilities inspection, maintenance and repair contract ballooned into a \$450 million gravy for a couple of well-connected, novice, companies with little track record in the industry should be concerning to all Ghanaians. (We cover that case in Part 3 and congratulate Mr. Kevin Taylor and the “With All Due Respect” program for their good governance advocacy efforts).

[Watch the Mr. Brad Pitt & Ms. Rachel Boynton film & documentary titled, “The Big Men”, to get a gist of how Ghanaians are being looted by FOCs, essentially the subject of the FTOS-Gh PSA campaign’s lamentation of woes and hopes for mother-Ghana when it comes to Ghana’ oil and mineral resources].

In another article, we pointed out Tullow’s disinformation on their website, claiming falsely that Ghana signed PSA agreements with them in order to derive optimum benefits from its hydrocarbon discoveries. The link, still available, is reproduced below even though the page has been modified and the document removed (<https://www.tulloil.com/sustainability/shared-prosperity/transparency/ghana-psa/>).

These falsehoods, disinformation and propaganda led to some citizens, including some of the people who signed our Change.Org petition, to question why the FTOS-GH PSA campaign was fighting for what Ghana was already getting, and had. All of that has continued to deflect attention from a critical look at what has been happening in Ghana by the hands of profiteers and nation-wreckers as Ghana’s oil revenues have disappeared under the “Big Men” tables.

Regrettably, even our Presidents, from President Atta Mills, to John Mahama, to John Kufuor, to Akufo Addo, to members of Council of State, and President J.J. Rawlings, failed to do due diligence. According to estimates by PIAC, \$31.22 billion is the total value of oil extracted from 3 production fields by the FOCs during 2010 – 2020. In that first decade, Ghana earned \$6.55 billion, representing about 21% of the total oil revenues from the 3 fields. The FOCs on the other hand earned \$24.67 billion, representing 79% of the total. Respectfully, each one of Ghana’s presidents, and as a group, over the years, failed to (a) demand an answer to the question whether Ghana as a sovereign would receive/was receiving fair share of its oil revenues and having gotten an answer, (2) confidently inform Ghanaians that oil contracts (15-plus by our latest count) signed without a single bonus, contracts with an average royalty rate of just 9.9% whereas the August 2000 “Model Petroleum Agreement” still posted on websites belonging to the GNPC and Petroleum Commission stipulates, "12.5%...of the Gross Production of Crude Oil shall be delivered to the State as Royalty", that all those contracts are securing Ghana a fair-share of its oil revenues.

As far as we are concerned, above cases are yet additional examples of current and former officials proposing untested and nefarious changes to Ghana’s oil fiscal regime that serve to bamboozle many uninformed Ghanaians, and worse, demoralise staff of the various Ghanaian agencies from doing the work they are paid to do on behalf of all Ghanaians. Attacking GRA and suggesting they cease collecting taxes owed by FOCs just so those companies can remain in Ghana at any cost is akin to the oil revenue management trojan horse of yester-years. In that 2011/2015 scheme, the full and complete attention of Ghanaians was directed to how Ghana must divide and safeguard the oil money Ghana receives, however little, rather than educating Ghanaians to seriously inquire if Ghana is receiving fair-share oil in the first place. All of this, in our humble opinion, is equivalent to certain current and former officials indulging in what we can best describe as a suite of “Most Distracting Gimmicks (MDGs)” and faux confidence mechanism-building measures that continue to bless and justify an unfair oil revenue collection system that continues to deprive Ghana of rightful oil revenues given that Ghana continues to invest in oil exploration and development

through GNPC, that Ghana provides land and maritime security that protects the oil wells and related assets, at cost to Ghanaians.

CONCLUSION: It is now clearer to the FTOS-GH PSA campaign that many of the organisations and individuals that have resisted adoption of a robust PSA fiscal regime may have been compromised. Some may have received remuneration from foreign sources and contracts through access to power and to agency resources/knowledge and knowhow, resources that could be acquired through employment or other non-competitive relationships. IEA, IMANI Africa, KASA and other CSOs who have opposed the PSA in the past and claimed that the new Ghana Royalty Tax/Hybrid fiscal system (a big departure from a robust and more complete PSA fiscal system) was a better and superior fiscal regime have not yet offered any empirical or scientific evidence to support their position. Some of these agencies were funded through DFID, nation-states (e.g. Norway), or other foreign interests (United Kingdom, United States), as we've noted previously. We can project that these same issues affect the larger Ghana mineral sector, and is not limited to just petroleum/oil.

We found out that some folks in these agencies wrongly thought that under a PSA contract, Ghana must further contribute capital in order to receive the agreed shares due the nation. By other means, certain CSOs and Think Tanks were being resourced by the World Bank, Oxfam America, STAR Ghana, DFID, Revenue Watch Institute, GIZ, to include oil money shared through the so-called corporate social responsibility (CSR) of FOCs, to resist PSAs for Ghana's oil. Then, there are certain current and former staff of public agencies including the GNPC, Petroleum Commission, and Ministry of Finance, etc., who connived in the deception of Ghanaians. How else would any person go around Ghana repeating lies and propaganda such as was captured in the video from Keta, that Ghana does not spend "a pesewa" to develop or produce oil? Or that, Ghana must reduce Ghana's statutory 15% participating interest in oil development in order to attract more foreign investments when that interest is the most important element for the finance of certain elements of the Ghana development agenda using oil revenues from depletable oil wells.

Ghanaians must ask of current and former officials where all the signing and lease bonus payments for Ghana's oil have gone, who got payments that went unreported to the people, and how much. While at that, we suggest Ghanaians also ask every former and current president and every official who signed any of the 15 contracts (by our count) to attest to their comfort and confidence that Ghana received/is receiving Ghana's fair share of its oil revenues; that they themselves and any persons they know never received a pesewa under the "Big Men's" table that deprived Ghanaians of their rightful oil signing and lease bonus payments, and any additional oil revenue and taxes actually owed to Ghana, funds that ought to have gone into Ghana's public accounts, but never arrived, which we took up in our whistleblower and court cases. Can Ghana's Economic and Organised Crime Office (EOCO) get down to business and finally follow-up with their investigation into the 2017 report that the FOCs spent a whopping sum of money to induce Ghana MPs to sign the garbage law Act 919, some MPS receiving \$500,000, some even higher, under the guise of providing CRF to them? Exactly what did the colossal sum of \$669 million that Tullow Oil in particular reported spending in Ghana produce for Ghanaians under the guise of providing CRF, and where?

Ghanaians must now demand cessation of bidding for oil blocks and approval/signing of new oil contracts until the garbage Act 919 law is abrogated or amended based on a rigorous and robust production sharing agreement (PSA).

In Part 3, we will provide additional information and critique on our recent findings and discoveries. Believing that Ghana's parliament surrendered their power when they approved the garbage Act 919, we will end with a prescription

to assure minimum performance measures for every new oil contract signed in the name of Ghana without regard to location of the oil field, country/identify of the FOC, beneficial owners' connections to politicians and power, etc., consistent with most robust PSA fiscal regime befitting Ghana as the sovereign owner of the mineral resource.

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SUBJECT: Ghanaians Need to Know About Ghana's "Garbage Oil Law", (Part 2).

AUTHOR: Fair Trade Oil Share-Ghana (FTOS-GH) PSA Campaign Ghana/UK/USA:

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NOTE: This paper focuses on Ghana's oil contracts, production, and revenues – actual and potential. No aspect of development and production of gas is directly addressed. However, as we have already noted, the primary issues apply to the larger Ghana minerals sector.

For Press//Dated: 28th October, 2024.

Thank you.

GHANAISANS NEED TO KNOW ABOUT GHANA'S “GARBAGE OIL LAW”, PART 3

By

Dr. Kofi Newman, Andy Kwawukume, J. Y. Fiebor (MBA)
(FTOS-Gh PSA Campaign)



Without doubt, since the “discovery” of oil in Ghana over the last 15 years, the FTOS-GH PSA Campaign has been the key, most prominent, and persistent voice that has continued to question whether Ghana is receiving a fair share of its own oil revenues. We have said that the “garbage oil law” absolutely does not fit the purpose of national interest and revenue collection for sovereign natural resources. At great cost to members, the Campaign has continued to advocate for a robust PSA regime for Ghana’s oil and gas commensurate with sovereign interests and continuing financial, commercial, and regulatory investments in the sector made through the GNPC, the Petroleum Commission, PIAC, Ghana Revenue Authority, etc. As the days, months, and years come and go, you can expect that this important work will continue to be cited in trade, academic, and professional journals in fulfilment of an important void in advocacy and the national agenda, with serious implications for international trade and commerce. Writing for the *Pan Africa Digest* with respect to challenges facing the in-coming John Mahama administration, Femi Akomolafe cites the work of this campaign, observing that “Ghana's extractive industry has been bastardized beyond description,” but Mr. John Mahama “can count on people like...Andy Kwawukume, and his patriotic comrades, who have produced enough policy papers to help any president who is serious about helping Ghana earn the maximum profit from its natural resources”. Mr. George Ndi (2017) writes about the foundation of the problem in the *Journal of Energy & Natural Resources Law*:

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Ghanaians Need to Know About Ghana's Garbage Oil Law (Part 1-2-3)
With Minimum Prescriptive PSA Standards for Model Agreement

“The opposition to the new law, spearheaded by the Fair-Trade Oil Share-Ghana campaign, has continued even after the passage of the new law, whose enactment the group perceives to have proceeded with precipitate haste...(and)...the many amendments at the bill stage (with more than 145 proposed amendments up to the first reading of the bill) constitutes evidence of a tacit rejection of the new law by Ghanaian legislators" (University of Huddersfield Repository, 2017).

The Fair-Trade Oil Share Ghana (FTOS-Gh) PSA Campaign needs all Ghanaians to know that the multi-million dollar cases currently before the International Chamber of Commerce (ICC) for arbitration in London, a foreign capital, a case that arose from the failure of the government of Ghana to timely, faithfully, and “efficiently” collect corporate income taxes and royalties from the foreign oil companies (e.g., Tullow Oil), originated from the Whistleblower case the FTOS-Gh PSA Campaign, at great cost to members, filed against the Government of Ghana back in 2018. (We provide a status update at the end of the paper).

Additionally, in addressing the matter of individuals more directly responsible for passage of the “Garbage Oil Law,” recognizing that there was quite a bit of revolving chairs among personalities leading up to the approval of the bill by the former Mahama administration, the following 7 individuals (all men) had key positions in the NDC government without whom the law would never have been enacted in its anti-Ghana, pro-FOC state:

1. Mr. Armah Kofi Buah, Minister, Energy and Petroleum
2. Mr. Benjamin Dagadu, Deputy Minister, Energy and Petroleum
3. Dr. Kwabena Donkor, Minister for Power.
4. Alexander Kofi-Mensah Mould, CEO, GNPC.
5. Mr. Amadu Bukari Sorogho, Chairman, Mines & Energy Committee, Parliament
6. Mr. Mahama Ayariga, Minister, Information and Media Relations/Communications
7. Mr. John Mahama, President. Our records and other information indicate Mr. Mahama may have been given bad advice by gatekeepers around him, that he himself may not have exercised due diligence, that he failed to seek out other objective and competent counsel, and/or did not avail himself of policy and other documents freely available online, before he signed the Garbage Oil bill in 2016.

To recap, in Part 1 and 2, we informed Ghanaians and supporters we are not against foreign investments, except that we are opposed to predatory foreign investments that do not facilitate fair trade and equal share. By the same token, our advocacy and other efforts are not funded by any foreign interests or oil company. We’ve asked Ghanaians to demand an answer to the central question why Ghana has not received a single pesewa or dollar in oil signing bonus after more than 15 years of selling oil in commercial quantities. The people must ask into whose pockets payments like those made to Guyana before a single barrel of oil was extracted, have gone. We have said that it is unwise for Ghana to reduce the statutory 15% participatory interest as suggested by Mr. Egbert Faibile. When Mr. Atta Akyea blames and chastises the GRA for doing their job, for demanding from Tullow Oil refunds and payments for unearned “...capital allowances, expenses, and tax exemptions,” we tell Mr. Akyea he is wrong for attempting to credit the “decline in petroleum production” to the FOC talking points, including “unpredictability of Ghana’s regulatory environment”.

Ghanaians must frown upon and condemn the lies and distortions propagated by certain government official (e.g., Mr. Osei Afriyie, GNPC – Keta, IFEJ Event, 2017), that Ghana does not spend a pesewa exploring and developing petroleum and gas, that Ghana does not invest in the

sector. During 2015-2020 alone, GNPC spent nearly \$1.3 billion on development and production activities associated with Jubilee, Sankofa and TEN Oil fields.

Royalty is taken at the top. We pointed out that in 2016, the Petroleum Commission made wrong and misleading statements regarding oil royalties paid by Tullow Oil and Kosmos Energy with regards to the Deepwater Tano (DWT) & West Cape Three Point (WCTP). At a minimum 5% royalty, Ghana ought to have received \$300,000.00 more than was reported for the period 2010-2014, and the PC owes Ghana's Parliament an explanation.

Next, the new Tullow Oil practice of approving multi-year sweet deal sole-source contracts such as the Bumpy-engineered/backed \$150m routine oil facilities inspection, maintenance and repair contract that ballooned into a \$450 million gravy for a couple of well-connected, novice, companies with little track record in the industry except kinship to Mr. Nana Akufo-Addo that was exposed by Mr. Kevin Taylor smells of corruption and unnecessary cost that ultimately are charged to Ghana as "expenditures" by Tullow Oil.

Finally, it was at the 2017 International Ghana Oil Conference in Accra featuring several eminent energy law professors and other experts, including Mr. Tsikata, that Act 919 was declared "garbage" oil law, not fit for purpose in Kwame Nkrumah's Ghana.

4 YEARS TO 2028 IS A MIGHTY SHORT TIME TO COUNT:

And so, as the 2024 electoral votes are still being collated and the ruling New Patriotic Party (NPP) continues its parliamentary seat losing-streak, NPP having already lost the Presidency in a blowout to the NDC party, we the members of the FTOS-Gh PSA Campaign are calling on all Ghanaians not to rest on their oars. We are calling on you to continue lending your voices and your efforts towards remedying the wrongs now. Mr. Mahama's NDC must now annul the garbage oil law the NDC enacted in the dead of the night in 2016. Ghanaians must now demand the cancellation of all oil contracts signed within the last 4 years for administrative and legal review by the in-coming Mahama NDC party. The proposed merger between Kosmos Energy and Tullow Oil, suspended by Kosmos Energy as of this writing, must be reviewed by the new government. At the minimum, the NDC, the party directly responsible for the garbage oil law, must immediately suspend preparation and bidding on new oil and gas blocks until the Petroleum Commission and the GNPC re-publish the Model PSA Agreement with increased share for Ghana, as sovereign owner. The revised model PSA must be mandatory, government-approved standard below which any Ghanaian official negotiating on behalf of Ghana may not bargain with any foreign oil company. (We provide 16 recommendations at the end of the paper).

While the existing Model PSA Agreement is a technical document, the key essential elements are not beyond the comprehension of the average reader, if they devote a little time and effort, if they graduated secondary school or high school and paid a little attention to civics, history, and elementary arithmetic. The hope is that most Ghanaians will recognize that the provisions of a mandatory PSA schedule is directly associated with the total development of Ghana with respect to revenues generated from Ghana's depletable oil and gas wells, as well as the other minerals, including gold. Continued plunder may echo to the lives and negatively affect the well-being of their sons, daughters, and great-grand-children when the new generations discover to their utter disgust that certain Ghanaian officials gave away Ghana's oil and gas resources for pittance. They would find to their disappointment that all of the resources were extracted and depleted before they were even born, with nothing to show their own children; that their farms, gardens, forests,

backyards, and rivers have been plundered and defaced directly by the hands of their elders and ancestors who allowed foreign interests to plunder and take the lion's share.

(NOTE 1: There is a cost for "depletion" of sovereign oil and gas. That is one reason why we choose to use the label "EXTRACT", instead of "LIFT" in the Campaign's papers. We employ "EXTRACT" to characterize the drawing of depletable oil from the ground, "lift" being a fancy trade label to fool and de-sensitize owners of oil wells about loss to their wells, as operators reel in most of the income generated from production, and quantity of resource is reduced to nothing, oftentimes with significant environmental and social maladies and disbenefits long after).

Sadly, the other big obstacle we have faced in our advocacy is convincing even our highly educated elite that Ghana could have received closer to 60% or more shares of the oil extracted without further contributing to exploration and development of the oil extracted under a more robust PSA. Unfortunately, many refused to read on the subject and instead chose to be ignorant, some willfully or selectively, as they received extra benefits for the crooked non-standard oil contracts. Papers, documents, and other materials provided by us to many government officials, media, and opinion leaders, at significant cost in time, money, and other resources to this campaign, have largely been ignored. Even most of the copies of *Ghana's Oil and Gas Discoveries: Towards Full Maximum Benefits*, a book published by our National Coordinator, a book curated by many major Western libraries, copies of which were donated to Ghana's MPs on 10 July 2013 at no cost to Ghana, were collected back from the offices of the Clerk of Parliament. We heard that the then Head of the Select Committee on Mines and Energy, Dr. Kwabena Donkor, ordered that the books should not be distributed to the MPs. A few notable Ghanaians, some with Ph.Ds., claimed they read the books and articles but said the subject was not their field of specialisation and so could not form an opinion. (Some confessed later that they did not read the materials at all. Being wilfully ignorant became a convenient strategy to adopt to facilitate their parochial interests).

Then, there has been the political and media silence imposed on us, thanks to the powers-that-be and incentives given to some media houses, as we've noted in passing. Our National Coordinator reported being told to his face, "We also want to educate our children abroad." This, from a journalist who soon rose to a prominent NPP government-appointed position. Although we received some attention through MyJoy Media, it turned out the time slot for one particular TV appearance on 19 August, 2016, was actually paid for by ACEP, quite possibly using money from the DFID and other foreign oil companies, without prior disclosure to our representative and the audience. The discourse time was naturally grossly skewed against FTOS-Gh PSA Campaign, 4-to-1, by our estimate.

For the record, at that 2016 MyJoy TV session were:

- Dr. Mohammed Amin Adam, leader of ACEP, now the out-going NPP Finance Minister, previously Ghana's Deputy Minister of Energy, "with responsibility for the petroleum sector". Apparently, fixing the garbage oil law was never part of that "responsibility," considering the leading roles ACEP under him and Mr. John Peter Amewu played in foisting the garbage oil law on Ghanaians.
- Mr. Samuel Bekoe, representing the Natural Resource Governance Institute (NRGI)
- Mr. Mutawakilu, then Deputy Chairman of the Select Committee of Mines and Energy

- Mr. Evans Mensah of MyJoy TV. Turned out there was even worse news for Ghana with respect to Mr. Mensah. It was later revealed in the media that Mr. Mensah received \$125,000 from foreign oil interests (Aker of Norway), money paid “annually” to his Excomsult Media company for “Media Consultancy and Communication Service.” No wonder, Mr. Evans Mensah found it convenient to stay away from questioning the “attempts by Aker Energy and Ghana National Petroleum Corporation (GNPC) to go into a US\$1.6 billion transaction,” considering his agenda included promoting the foreign interests, according to a Ghana-interest scoop by *The Herald*. According to their report:

“...Aker Energy, had engaged Evans Mensah from 1st January 2022 to December 2022, but The Herald’s information is that, the engagement dates way back (far back to 2019), ... when Aker Energy decided to pursue a revision of the terms of their contract to make it more generous after the Ministry of Energy rejected the PoD for the strategy proposed for developing the Pecan field... implying that he has received more than the US\$125, 281. 21...(as) Rented Joy FM Journalist bags US\$500,000 from Aker Energy so far...” (*The Herald*, Various Reports, 2023).

In email exchanges with Dr. Anthony Kobla Dotse, another important supporter of our campaign, on September 3rd 2016, Mr. Kwame Pianim, a member of the Petroleum Commission (sorry, Sir, we have to use this information), wrote: “It took a major review tweaking of the oil and gas regime as structured by Tsatsu Tsikata by President Kufuor with support from Commonwealth Secretariat.” A new model petroleum agreement was then prepared to fall in line, and retroactively backdated to 17 August 2000, when President Kufuor was not in power, to replace what Mr. Tsikata had put together, PNDCL 84, which was more consistent with the PSA fiscal system. This was substantiated in a post to the Okyeame Forum by another lawyer who worked with Mr. Tsikata, Mr. Kwame Mfodwo, who reiterated how they collected the information worldwide to frame the law. In another mail sent to Dr. Dotse by Mr. Pianim, a founding member of the NPP, on 16th October, 2016, Mr. Pianim buttressed this point:

“Let us be clear what my position is: I am for the introduction of PSA. The fact that the Ghana system has been under adjustment from the Royalty-based to some Hybrid System should be enough evidence that it is inferior to a properly structured, implemented PSA”.

With respect to Mr. Tsikata and his massive umbrage about the characterization of Act 919 as garbage by “Harvard professors”, we can in theory conclude that the multi-million-dollar sweet deal contract he received for Strategic Oil from foreign oil interests could have heavily compromised him and influenced his view on the Ghana Hybrid System that, as we’ve shown, most favors foreign oil interests. In addition, we will note that the International Financial Corporation (IFC), even the United States SEC or other law enforcement agency, declining to further investigate reports of bribery or other malfeasance, is neither evidence of innocence, nor is it compliance with ethical norms and standards of their own countries that the IFC, U.S., or other party has no interest or equity.

FIVE (5) QUESTIONS FOR GHANAISANS & OBJECTIVE READERS:

1. If Kwame Pianim recognized that the Ghana Hybrid System was inferior for oil revenues, the question becomes what Ghana-centered steps did Pianim take at that time to advise Presidents Mills and Mahama, the MPs, and Ghanaians that could have prevented the 2016 law, soon to be described and labelled as “garbage” by eminent professors of law, from being passed?

2. If Mr. Kwame Pianim and others thought that the PSA was a superior fiscal regime for sovereign oil revenues, why did the Petroleum Commission join the Ministry of Mines and Energy, GNPC, ACEP, CSOs on Oil and Gas and other Think Tanks, to oppose our campaign for the consolidation of the existing PSA fiscal regime into a properly constituted, more robust PSA law, after many of them and the oil companies themselves had declared Ghana to be sufficiently “de-risked”, and oil companies were rushing into Ghana at the time?

3. If fellow African countries including Ethiopia, Togo, Chad, Mali, Niger, Eritrea, Benin, Sierra Leone, Liberia, Senegal, Kenya, Uganda, Tanzania, and South Sudan, have all signed PSA agreements without any fundamental questions about de-risking (remember that (a) South Sudan is still at war with itself, (2) hardly any of these countries have even 25% of the knowledge, skills, aptitude, and capacity (K-SAC) of GNPC)), are Ghanaians supposed to understand that the political leaders and technocrats in charge of the oil and gas sectors of those fellow African states are better educated, more learned, better informed, more intensely nationalistic, than their counterparts in Ghana?

4. As Kosmos Energy is now considering buying up Tullow Oil’s interests (as of this writing we understand the offer is off the table, subject to recall by Kosmos Energy) including those in Ghana and possibly the PSA contracts in the other African countries, should not these Ghanaian officials and politicians explain to us the superior Ghana-Hybrid-Benefits connected to Tullow Oil and Kosmos Energy not signing PSAs with Ghana; while all the newly emerging oil producing countries in Africa have PSAs to show their fellow citizens and supporters?

5. What are the motivating factors that influenced our political leaders and the technocrats in resisting and opposing the adoption and implementation of a robust PSA in Ghana when they are aware PSA would accrue more than 50% of total production revenue to Ghanaians, as owners of the resource as well as investors and risk-takers, as against the Royalty Tax/Hybrid System certain political leaders and the technocrats invented which now accrue a lot less than 25% of total oil production revenue?

Let us now listen to one such person, Mr. Benjamin S. K. Dagadu, former Deputy Minister of Petroleum, who, over the years, had been accused of conflict of interest and other malfeasance in the award of Ghana oil blocks, including one “won” by a company called A to Z Petroleum for which he, Mr. Dagadu, was “the General Manager”. Mr. Dagadu said this, himself:

"Unlike the concessionary system, where a sovereign nation often transfers its ownership of the resource to the licensee and mostly gets less than 25%, of total revenue accrued, the PSAs mostly vest ownership in the State and could give the country over 50% of the accrued money," (Graphic Business, 8 March to 14 March, 2016).

Speaking to Joy Business at the recent book launch of his *My Footprint in Ghana's Black Gold*, Dr. Amos Ofori Quaah, former Chief Executive of GNPC, urged Ghana to return to the oil Production Sharing Agreement to accrue more revenue from hydrocarbon resources. According to him, the country’s current contractual agreement for petroleum exploration is a bane to the development of the sector and the economy at large:

“Personally, I think we should review the agreement and go back to the production [sharing] agreement because what we are getting is simply not fair for the efforts we put in. Is not fair, we could do better... We went into this hybrid thing which has not helped Ghana because technically the Production Sharing Agreement stood to give Ghana more of the

resources than we have at the moment. It's a very sad reflection of the industry. I think we should go back to the production sharing agreement.”

Reportedly, Dr. Ofori Quaah resigned from his post because he was not happy about Kufuor's handling of the upstream oil sector. During his book launch event he said that some of his colleagues even “met their untimely death in the quest to search for offshore oil,” and wanted a review of the garbage oil law partly in recognition of the suffering of departed colleagues, and to honour their contributions.

OUR RESPONSE TO THE “HYBRID SYSTEM” TECHNOCRATS:

We, in the FTOS-Gh PSA Campaign, will continue to use every avenue, tactic, and resource available to us to press on. We will press on until the garbage oil law is annulled or significantly amended to cure the corruption infestation therein that gives a solitary Minister sole power to bypass open, competitive bidding, and a standard minimum model PSA made mandatory for all new oil contracts and oil blocks regardless of who is “the minister,” or government in power.

To us, the reasons Ghana is losing oil revenues massively to the FOCs and the PIAC and Ghana Petroleum Commission can at the same time loudly trumpet “Ghana has made over \$10bn from 633,300 barrels of crude oil since 2010,” without also reporting to Ghanaians exactly how many barrels and how much the FOCs took out of Ghana after allowance for their cost of production during the same time is another significant, perplexing, and confusing problem.

Underneath all of that are multiple levels of conflicts of interests, abrogation of Parliament's power to solitary “Minister of Energy,” propaganda and deceit by many in the Ghana media and TV, NGOs, and above all, the betrayal of trust reposed in our politicians and technocrats. As we've shown in the series and other notices, the betrayal is associated with the “Big Men confetti,” free shares for some and lucrative sole-source contracts and payments under tables to some other officials and their spouses, falling into their pockets like sweet honey, as they continue to be unable to show a single oil and gas signing bonus for Ghana over the last 15 years, ever.

Shamefully, many political leaders, even if patriotic and not selfish or greedy, cannot make the right decisions in these matters because they are ignorant about the PSA, and will not ask for help from competent and objective experts. And so, they became prey for heavily compromised NGOs and CSOs who profess expertise on oil and gas, funded and/or founded by the oil companies or their host nations. We found out that many of the same technocrats are themselves mostly ignorant, as almost all did not understand what PSA entails, apart from being unaware about some crucial international documents and reporting standards, including those required by the United States Securities and Exchange Commission, (SEC), the Petroleum Commission, PIAC, and GNPC, etc. The select technocrats and the legal gurus with expertise, having purposely neglected to explain the problem to Ghanaians, deliberately lie to the other technocrats, or otherwise invent all kinds of fantastic tolis, shenanigans, and excuses, that are then conveyed to political leaders in small rooms and halls far from the warehouse where some of them keep the hoard of looted government procured implements like fertilizers, and illegal galamsey machinery that now have turned Ghana's rivers, streams, and lands into useless water and dirt.

The latest shenanigan is the much hyped “energy transition,” being a keypin ruse to hasten the depletion of our hydrocarbon reserves by giving the FOCs more leeway and interests. Recall recent proposition by Mr. Egbert Faibile for Ghana to reduce its 15% participatory interest. They are now advising government to grant the FOCs more favourable terms to abet the plunder of Ghana's oil

reserves before they themselves retire. It is as if even the United States, United Kingdom, Germany, France, and the other highly industrialized economies directly responsible for climate change will themselves not use or need oil or petroleum products in the future, in 25 years, or more. What about ourselves?

That is a darn uninformed proposition if they actually believe half of the tall tales they are now telling. On the contrary, allowed in the ground, depletable oil and gas will most likely continue to be even more valuable in the future, and presents minimal environmental risk/hazard. It would be better left in the ground than sold for a bargain for free shares and insignificant professional services contracts for select elites under the guise of facilitating “local content,” capacity and capability. If quickly extracted and depleted in our own lives’ time, there will of course be attendant risks of pollution and other potential issues during exploration, production and transport; and cost and risk to de-commission the oil wells, after wells are abandoned and the FOCs escape, such as sale/transfer to other parties and bankruptcy. In addition, quickly extracted, you do not then get to use improved technical processes and machinery, and new inventions, that could significantly reduce cost and risks of exploration, development, and production of oil and gas.

Maybe those technocrats think that if Ghana got very serious and properly planned, and GNPC was properly funded and supervised by other competent technocrats who have the nation more at heart than the current crop on the verge of retirement, that the GNPC and other existing governance structures could not evolve or acquire the same or more superior K-SAC in 10-15 years; or borrow money to fund investments just like Tullow Oil, a company founded by a single individual in Scotland barely 40 years ago, does/can.

Begs the other question!

Where are the reforms to the minerals sector recommended by Professor Raymond Atuguba in the report he submitted to the NDC the last time around? Zilch, we are sad to say. There is not an iota of reflection of any of that in our minerals laws. The recently signed agreement giving away again the newly discovered Ewoyaa lithium deposits to Atlantic Lithium of Australia, through Barari DV Ghana Ltd, is another sorrowful and pathetic case. Many Ghanaians and organizations, including the NDC, having “raised compelling concerns about the motives behind the lithium deal and potential negative impacts on Ghana’s resources and economy,” the new Mahama NDC government now has a chance to cancel that Akufo-Addo agreement. At the minimum, the NDC should serve notice and re-negotiate for better results for sovereign Ghana and posterity, and right the harms of the NPP government.

Mr. Mahama cannot continue as he did in the past with Kufuor’s illegal Jubilee Oil Field contracts of yesteryears that caused Ghana to end up with the garbage oil law in the first place. Mr. Mahama must stop the cycle of predatory plunder of national wealth in the name of accessing foreign investments for Ghana.

As we watch, blow whistles, and advocate for the FTOS-GH PSA Campaign as stridently as possible at the behest of our supporters in/outside Ghana, we reckon four (4) years to 2028 is a mighty short time for Mr. Mahama to count!

THE FTOS-GH PSA CAMPAIGN’S WHISTLEBLOWER CASE:

A major implication of the action taken by former Kufuor’s administration in signing a concession agreement and its approval by the Mills’ and Mahama’s administrations and MPs was the

infringement of the statutory oil and gas PSA fiscal regime structure, we've discussed above. As we've noted, in as much as Ghana also invests, a robust PSA would have inured a fairer, more equitable share of revenues for Ghana, compared to the revenue-losing Royalty Tax System foisted on Ghana under the erroneous notion of creating a conducive climate to attract foreign investment. At the end of 2020, this had brought about the colossal loss of an estimated US\$10 billion from Jubilee Fields alone. Besides that, the Jubilee Fields partners have also evaded corporate tax and royalty payments far exceeding the IMF bailout fund of US\$3 billion, causing Ghana further losses of revenue. (Pun intended, the Concession system is not described as the "bastard system" for oil contracts for nothing).

A major drawback of Act 919, being essentially a Royalty or Concession system, is the evasion of taxes by the FOCs through all kinds of manipulations of the tax code such as the case now before the London arbitration court, commonly avoided under PSA with little planning and effort. In fact, under PSA, one can even avoid the hassle of collecting tax as an incentive to the FOCs. Therefore, in 2018, we drew the attention of the Ghana Revenue Authority (GRA) to tax evasion by the Jubilee Fields partners through a whistleblower complaint. When the GRA and EOCO failed to act, we went to court. Unfortunately, the GRA and Petroleum Commission were left out of the suit by our lawyers without our knowledge and informed consent. The Auditor General (then Mr. Daniel Yaw Domelevo) and the Attorney-General were rather sued, under an obscure, never used clause on the roles of the Auditor-General.

Sadly, in what to us is either a major defect of the Whistleblower law, or a judge gone haywire for whatever reason, a travesty, Justice Efiya Serwah Asare-Botwe, the judge sitting on the case, decided to dismiss the case against the Auditor-General, which is part of the same government. Note that the whistleblower law says complaint can be filed at both, at Auditor General or Attorney-General. Judge Asare-Botwe accepted the Attorney-General's excuse that they had handed over the case to EOCO to investigate. This is the same EOCO which had earlier been contacted by this Campaign with documents, leading to the head of the Large Frauds section rather losing his post.

On another level, from the experiences we had garnered, it was doubly perplexing that the lawyers at the Auditor-General's office claimed absolute ignorance. In front of Justice Asare-Botwe, they claimed total ignorance of the petroleum sector and performance of related public agencies including the GRA in safe-guarding sovereign Ghana's interests by doing their job. However, a cursory look at their work quickly revealed to us the following oil-and-gas interest reports, among many others:

- 1. Performance Audit Report of the Auditor-General on the implementation of Local Content in the Oil and Gas Sector of Ghana (2016)*
- 2. Report of the Auditor-General on the Consolidated Statements of Foreign Exchange receipts and payments of the Bank of Ghana (BoG) for the year ended 31 December (2020)*
- 3. Report of the Auditor-General on the management of Petroleum Funds for the financial year ended 31 (2020).*

At this very moment, the issue of unpaid/uncollected tax revenues owed to Ghana by the FOCs has not yet been resolved, so we reserve further comments and actions at a later date and time of our choosing.

SUMMARY RECOMMENDATIONS & CONCLUDING REMARKS:

Fellow Ghanaians, clearly, we cannot continue in the old neo-colonial state we inherited from the colonial era that benefits a few collaborators on one side; and on the other side, their foreign, predatory sponsors they call investors, who now take over 80% of our wealth away to develop their own countries. Not to mention the capital flight our own collaborating elite indulge in out of our sight and national laws, including the opening of off-shore accounts and use of foreign companies as “tax havens”. We need a complete departure from the colonial era status quo in the minerals sector, and a robust PSA is the best option available on the table for Ghana’s oil and gas. It can even be applied in the other minerals sector as Minerals Production Sharing Agreement (MPSA), not only in the oil and gas sector. The idea is, properly integrated, “labels” denote “standards” which beget confidence in systems, including markets; and facilitates acceptance of risks on all sides. Ghanaians must not depend on the whims of any solitary “Energy Minister,” or hidden identities of beneficial owners operating off-shore, to award minerals contracts on behalf of sovereign Ghana. (The Table below is a summary of the FTOS-Gh PSA Campaign’s recommendations for implementation of minimum PSA fiscal standards for Ghana’s oil under 16 points):

ITEM	GHANA OIL CONTRACTS: 16 PRESCRIPTIONS FOR STANDARD <u>MINIMUM</u> PSA FISCAL REGIME
1	Annul/amend Act 919.
2	Suspend all new oil contracts with immediate effect.
3	Require transparent, open-competitive bidding. Prohibit minister’s purview to over-rule process.
4	Require cash bonus for every oil/gas contract/lease, paid into national bank account. Establish MINIMUM \$\$\$/Amount per Block. Add as part of open, competitive bid process.
5	Require royalty on gross production shall not be less than 12.5%. Peg to progressively increasing number of barrels.
6	FOC/contractor is entitled to a predetermined share of production, cost oil, for cost recovery, per site.
7	Profit oil will be shared between government (55%) and IOC (45%) at prespecified levels.
8	FOC/contractor pays statutory income tax on its share of profit and cost oil combined.
9	Surface rental income to be accumulated and saved, with interest, for decommissioning and pollution avoidance/mitigation, training, emergency, and public service equipment.
10	State participation interest shall not be less than 15% for any oil contracts signed during the next 5 years; goes to 20%, thereafter.
11	Additional Oil Entitlement (AOE) shall be replaced with Domestic Market Obligation (DMO) - government option to buy portion of contractor’s share at a price lower than the market price, and still at profit to FOC.
12	Ring-fence oil and gas activities. Prevent transfer of costs to or from non-related areas/activities/countries.

13	FOC/contractor will provide Ghana-specific report about intended CSR projects and actual expenditures, if any, and an annual report for transmittal to PIAC, GNPC, and Parliament on anniversary of the contract/deed.
14	Publish oil contracts and deeds as part of requirements for Petroleum Register within 30 days of approval.
15	Publish beneficial owners of oil contracts/blocks, as part of requirements for Petroleum Register within 30 days of approval.
16	Revise Model PSA and tailor to prescription 1 - 15. Post to GNPC, PC, PIAC websites as statutory minimum requirement for all petroleum contracts within 30 days of approval by Parliament. Post document to Petroleum Register within 30 days of approval. (Review every 5 years - approved by Parliament).
FTOS-Gh PSA Campaign, December, 2024	

In closing, we agree. As enacted in 2016, Act 919 is a garbage oil law. Act 919 is a conspiracy hatched against Ghanaians from the corridors of Western powers in collaboration with a few Ghanaian elite technocrats and politicians who cannot show Ghanaians a single oil bonus payment since Ghana's oil begun to flow in commercial quantities. Act 919 is a Nigeria-style 419 Royalty Tax Scheme. It is a fraud to rob Ghanaians of their sovereign oil and gas wealth in the name of attracting foreign investment. This is exactly what is happening, with the "Big Men" teaming up with a few Ghanaians and other foreign nationals who form off-shore companies with hidden ownership that Amin Adam decried a decade, and some ago.

How about continuing to invest in GNPC and other assets and following the Norwegian model of state corporatism that has so much enriched Norwegians. Clearly, the GNPC could be more easily supervised and controlled, compared to the FOCs. ARAMCO, which used to be a foreign private company is now majority-owned by the Saudi state, with just about 1.5% now in private/foreign hands.

Here is our warning. Just like gold, diamonds and other minerals that have been exploited under the royalty system for over a century without much evidence of the wealth created in Ghana, so shall oil yield for Ghana little development and wealth under Act 919, if not annulled, or severely modified to conform to a PSA. The revised PSA model when adopted must have minimum standards that are not subject to the whims and self-interests of solitary officials no matter their position of political affiliation because the resource/wealth belongs to the nation and the people. The reader is urged to compare Ghana's Obuasi to South Africa's Johannesburg. Again, we predict that the same dire conditions will happen with oil and gas unless Ghanaians receive a fair share of oil and gas revenues, to begin with. But, how Ghanaians spend the revenues is quite another matter. Nonetheless, Ghanaians should not be fooled by "Revenue Management" and the shiny trojan horse at bottom, such that the people completely neglect to ask the far more important question: Are we receiving a fair share of the oil revenues commensurate with sovereign ownership and control of own resources, in the first place?

The select few elites who drew up the "Hybrid System" agenda to create moneybags for themselves and their friends, then siphoned the funds to foreign off-shore accounts should know that the Nigerians first fought to replace their royalty system with joint ventures and then PSA. But who, in his or her sane mind, thinks that going the way of Nigeria is the best option to choose instead of following the advice of the Norwegians or Saudi Arabia, for instance?

Fellow Ghanaians, the time has come to revolt against the pernicious status quo that is the garbage oil law the then-Mahama NDC government, rabidly supported by the outgoing NPP honchos, enacted when they had power the last time. The Akufo-Addo NPP government having ignored the problem during the last 8 years even when they had Amin Adam as deputy energy minister, now is an opportune time for Mr. John Mahama and his NDC party to turn around the sad state and rectify his monumental mistake. Mr. Mahama must claw back all that they gave away 8 years ago. He must stop the multi-billion dollar loses in oil revenues that still continue. It would serve their party's interest and that of Ghana a lot better by implementing a more Ghana-centered Model PSA with mandatory minimum along the lines we've recommended.

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SUBJECT: Ghanaians Need to Know About Ghana's “Garbage Oil Law”, (Part 3).

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NOTE: This paper focuses on Ghana’s oil contracts, production, and revenues – actual and potential. No aspect of development and production of gas is directly addressed. However, as we have already noted, the primary issues apply to the larger Ghana minerals sector.

For Press//Dated: 17 December, 2024.

Thank you.

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**Ghanaians Need to Know About Ghana's Garbage Oil Law (Part 1-2-3)
With Minimum Prescriptive PSA Standards for Model Agreement**

FTOS-Gh PSA Campaign Images



Ghana's Garbage Oil Law Act 919



Vulture



Vulture

Ghana Share

GHANA OIL	GHANA OIL
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Foreign Oil Company Share

GHANA OIL	GHANA OIL	GHANA OIL	GHANA OIL	GHANA OIL	GHANA OIL	GHANA OIL	GHANA OIL
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Vulture

Muntaka Chasant

★ Fair-Trade Oil Share – Ghana ★ (FTOS-Gh)