



Ghana's New Petroleum Act Shows The Common Resolve Of Ghanaians To Good Governance In Oil And Gas Management – ACEP

5th August 2016.

The Africa Centre for Energy Policy (ACEP) is pleased to welcome the passage of the Petroleum (Exploration and Production) Act 2016 by Parliament, following four years of consultations with stakeholders.

ACEP has taken positive note of the provisions of the Act, which relate to our concerns as expressed in several press statements, memos and campaign messages. In particular we wish to highlight the following provisions in the new Act:

1. An open and competitive public tender for the allocation of petroleum rights;
2. A requirement for the publication by the Minister, the reasons for vetoing the outcome of a competitive public tender. This addresses the wide use of discretion by the Minister previously proposed in the Bill.
3. The use of direct negotiation if only one company expresses interest in the area, after a notice to tender has been published.
4. A requirement to enter into Petroleum Agreement with persons or companies that have the requisite technical competence and financial capacity to fulfill the obligations under the Agreement.
5. The establishment of a public register for the disclosure of Petroleum Agreements, Authorizations and Permits, which will be open to the public.
6. A requirement for GNPC to seek parliamentary approval if it borrows in excess of US\$30 million.

We also take note of the provision for the disclosure of beneficial ownership information in the Companies Amendment Act, 2016, which will complement the governance principles provided for in the Petroleum Act.

These are very strong governance provisions, which make the Act very progressive, and an important milestone in Ghana's history of oil and gas resource management.

We are however worried that an important provision relating to penalty for conflict of interest of public officers has not been incorporated in the Act despite many calls for it. In Liberia's Petroleum Act 2014, a conflict of interest and penalty clause reads "An officer in the public service engaged in the implementation of this Act shall not, in his or her private capacity, knowingly, directly or

indirectly, acquire, attempt to acquire or hold: (a) a petroleum right or an interest in a petroleum right; (b) a direct or indirect economic interest, participation interest or share in an entity that is authorized under this Act to carry out petroleum right in Liberia; or (c) a direct or indirect economic interest, participation interest or share in a company that is providing goods or services to a holder of a petroleum right under this Act. A person who contravenes this commits an offence and is liable on conviction to a fine not exceeding fifty thousand US dollars or imprisonment not exceeding five years or both”.

ACEP will continue to campaign for this provision on conflict of interest to eventually reflect in future amendments to the Act, as we believe strongly that it will deter the complicity of rent seeking public officials from undermining the good governance principles in the Act.

ACEP has been at the forefront campaigning with other stakeholders for good governance principles to be incorporated in the Petroleum Act; and we are happy that in spite of the long years of delay in passing the law, it has finally been approved with such governance standards that put Ghana on the map of countries determined to break away from the oil curse.

At this point, it is our expectation that all Ghanaians will show interest in the implementation of the Act. We wish therefore to call on Government to issue the appropriate implementing regulations on the Act to ensure effective operationalization of the Act.

We would like to commend Parliament for passing this very progressive Act particularly the Chairman and Members of the Committee on Mines and Energy for their great contribution to the Act. We would also like to commend the Hon. Minister of Petroleum, Emmanuel Armah Kofi Buah for his commitment and hardwork in pushing for the Bill to be passed.

Finally, we salute our partners and all citizens of Ghana for their role and support in championing the cause of good governance in Ghana’s oil and gas management.

Signed,

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(Executive Director)