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REPORT OF THE SELECT COMMITTEE ON
MINES AND ENERGY

ON THE

PETROLEUM (EXPLORATION AND
PRODUCTION) BILL, 2014

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PETROLEUM (EXPLORATION AND PRODUCTION) BILL, 2014

1.0 INTRODUCTION

The Petroleum (Exploration and Production) Bill, 2014 was laid in Parliament by the Minister for Petroleum, Hon. Emmanuel Armah-Kofi Buah on 12th November, 2014 in accordance with Article 106 of the 1992 Constitution.

The Bill was subsequently referred by the Rt. Hon. Speaker to the Select Committee on Mines and Energy for consideration and report pursuant to Orders 125 and 188 of the Standing Orders of Parliament.

2.0 PROCEDURE FOR THE CONSIDERATION OF THE BILL

2.1 The Committee firstly caused to be published in the newspapers the fact of the Referral and a request for submission of Memoranda in respect of the Bill. Consequently, the Committee sent written requests to key Stakeholders in the Petroleum industry to obtain their comments on the Bill. The following institutions responded by submitting the written Memoranda to the Committee:

- i. The Environmental Protection Agency (EPA);
- ii. The Ghana National Petroleum Corporation (GNPC);
- iii. Ghana Institute of Governance and Security (GIGS);
- iv. African Centre for Energy Policy ACEP;
- v. Ghana Oil and Gas Service Providers Association (GOGSPA);
- vi. The Ghana E&P Forum (Ghepf);
- vii. The Ghana Arbitration Centre;
- viii. Natural Resource Governance Institute (NRGI); and
- ix. Ghana Oil and Gas for Inclusive Growth (GOGIG).

2.2 This was followed by study visit by the Committee to Norway, Trinidad and Tobago and Malaysia as part of its procedures to make necessary enquiries into issues contained in the Bill and to also acquaint the Committee with current developments in the upstream petroleum industry.

2.3 The Committee finally held series of meetings with the Hon. Minister for Petroleum, Mr. Emmanuel Armah-Kofi Buah and Officials of the Ministry to consider the Bill. The meetings were also attended by Officials of the Petroleum Commission, the Ghana National Petroleum Corporation (GNPC) and the Ministry of Justice & Attorney-General's Department to assist in the deliberations.

The Committee is grateful to the Hon. Minister and the Officials for attending upon the Committee and for their invaluable assistance during its deliberations.

3.0 REFERENCE DOCUMENTS

The Committee was guided during its deliberations by the under-listed documents:

- i. The 1992 Constitution of the Republic of Ghana;
- ii. The Standing Orders of Parliament;
- iii. The Petroleum Commission Act, 2011 (Act 821);
- iv. The Petroleum Revenue Management Act, 2011 (Act 815);
- v. The Environmental Protection Agency Act, 1994 (Act 490);
- vi. The Ghana National Petroleum Corporation Act, 1983 (PNDCL 64);
- vii. The Petroleum (Exploration and Production) Act, 1984 (PNDCL 84);
- viii. The Petroleum Income Tax Act, 1987 (PNDCL 188); and
- ix. The Environmental Impact Assessment Regulations, 1999 (L.I. 1652).

4.0 BACKGROUND INFORMATION

- 4.1 Petroleum exploration in Ghana is noted to have begun in the 1890s while discovery of oil in commercial quantities was made between 1970 and 1980. The commercial discovery of oil led to the expansion of the country's petroleum activities, measures were put in place to promote further exploration and production of oil and gas in the country.
- 4.2 As part of the measures, a number of laws were enacted to promote oil and gas exploration and also for the regulation of the upstream petroleum sector. The first law to be enacted was the Ghana National Petroleum Corporation Act, 1983 (PNDL 64) was enacted to establish the Ghana National Petroleum Corporation as the national oil company. This was followed by the enactment of the Petroleum (Exploration and Production) Act, 1984 (PNDL 84) to provide the framework for the conduct of petroleum exploration and production in the country.
- 4.3 Following the discovery of oil and gas in significant quantities in 2007, the Government commenced a legislative programme to strengthen the existing legal framework to help deal with new challenges in the sector. Under the programme, the Petroleum Commission Act, 2011 (Act 821) was passed to establish the Petroleum Commission as a regulator of the petroleum upstream industry and

subsequently the Petroleum Revenue Management Act, 2011 (851) was passed to manage the utilization of revenues from the country's hydrocarbon resources.

4.4 As part of the legislative programme, steps were undertaken within the same time to update the Petroleum (Exploration and Production) Act, 1984 (PNDCL 84) to address current developments in the petroleum upstream industry. This culminated in the preparation of the Petroleum (Exploration and Production) Bill, 2010. The Bill, which was first introduced in Parliament on 16th July, 2010 for approval, was later withdrawn by the Hon. Minister for Petroleum to allow for further consultations with Stakeholders on some aspects of the Bill.

4.5 The Petroleum (Exploration and Production) Bill, 2014 was accordingly prepared after the consultations and same again laid in Parliament by the Minister for Petroleum on 12th November, 2014 for its passage.

5.0 OBJECT OF THE BILL

The object of the Bill is to repeal the Petroleum (Exploration and Production) Act, 1984 (PNDCL 84) to ensure the safe and efficient conduct of petroleum activities towards the achievement of optimal long-term petroleum resource exploitation.

6.0 ARRANGEMENT AND SUMMARY OF PROVISIONS

6.1 The Bill, which contains 95 Clauses, has been arranged in accordance with petroleum life cycle.

6.2 Clauses 1 to 5 lay down general provisions including the object of the Bill, ownership and management of petroleum resources. This is followed by provisions relating area management, execution of reconnaissance licences and petroleum agreements and framework for the conduct of exploration, development and production of petroleum (Clauses 6 to 37).

6.3 Clauses 38 to 49 cover provisions regulating the transportation, treatment and storage of petroleum resources and decommissioning whilst Clauses 50 to 60 set out the principles for the conduct of petroleum activities.

6.4 Local content requirements in the conduct of petroleum activities as well as domestic supply obligations are covered by Clauses 60 to 70 whilst Clauses 71 to 82 seek to provide for the regulation of health and safety and environment issues in the oil and gas industry.

- 6.5 Clauses 83 to 87 cover fiscal provisions for the petroleum sector including the requirement for the payment of royalties, surface rentals, taxes, bonus payments and entitlement to additional oil by the State.
- 6.6 Miscellaneous provisions have been provided for under Clauses 88 to 95 to cover petroleum-related matters such as the right of individuals to undertake exploration and production of natural resources other than petroleum resources, offences and penalties and provision for the making of Regulations.

7.0 OBSERVATIONS AND RECOMMENDATIONS

The Committee made the following observations during deliberation on the Bill:

7.1 Adoption of appropriate Fiscal Regime for the Petroleum Sector

The Committee held extensive consultations with institutions and experts both locally and internationally in the quest to find the fiscal system that will generate the best possible benefits to the country. The Committee further held several meetings with the Ghana Institute of Governance and Security (GIGS) led by Mr. Kwawukume to offer them the platform to present a paper on their rejection of the hybrid system as proposed by the Bill. As against the position espoused by GIGS, the GOGIG led by Mr. Amoako-Tufuor and other experts also delivered presentations on the benefits of the hybrid system.

After due consultations and simulations by experts on the subject, the Committee came to the conclusion that the basis for obtaining the greatest benefits from the country's petroleum resources does not lie in adoption of a specific fiscal system but what really matters is the ability of a State to negotiate appropriate terms under petroleum agreements. Again, the Committee discovered through its study tours that the current best practice on the subject is to select the best elements from both the Concession and the Production Sharing Systems. Based on the above, the Committee endorses the hybrid system provided in the Bill under Clauses 83 to 87. The elements of the hybrid system as contained in the Bill royalties, surface rentals, taxes, bonuses and additional oil entitlements. The State is again entitled to a carried interest and may further negotiate for additional participating interest upon commercial discovery of oil and gas.

~~7.2 Mechanism for the Award of Petroleum Blocks~~

The Committee also noted that adequate measures have been provided in the Bill to ensure that petroleum blocks are awarded in a transparent manner in line with

international best practices in the petroleum industry. Per Clause 10 (3) of the Bill, the grant of petroleum agreements would be subject to an open, transparent and competitive public tendering process. This notwithstanding, the Committee noted that the Minister for Petroleum would be empowered to reject an outcome of a public tender where the Minister believes that it is in the public interest.

In view of the possible abuse of the discretionary power, the Committee raised concern about the rationale for such a provision. In their response, Officials of the Ministry of Petroleum explained that the provision is intended to allow the Minister to decline the grant of petroleum rights to the winner of a bid where such grants may have national security implications and in cases where it is apparent that the company involved is incapable of executing the work obligations.

After due deliberations on the issue, the Committee decided to propose amendments to check possible indiscretion in the exercise of the powers. The Committee accordingly proposed amendment that will require the Minister to publish the reasons where it becomes necessary to reject the outcome of a tender process.

7.3 Ownership of Petroleum Interest of the State

The Committee again noted that the passage of the Bill would require all petroleum agreements to make the GNPC a trustee of both the State's carried and participating interests (Clause 10 (14) of the Bill). In view of the effect that such a measure will have on the financial capability of the national oil company and in recognition of the direct investment by the GNPC in the acquisition of participating interests in petroleum blocks, the Committee decided to limit the measure to only the carried interest. The Committee has accordingly proposed an amendment to the effect that the Corporation shall hold on behalf of the State only the carried interest.

7.4 Regulation of Petroleum Operations of the GNPC

The Committee again noted that the Bill has made provision for the regulation of the GNPC as an operator in the upstream petroleum industry by the Petroleum Commission in line with the Petroleum Commission Act. Though the Bill permits the Corporation to undertake petroleum activities in an opened area which is not covered by a petroleum agreement, the Corporation is required to conduct its petroleum activities in accordance with specified requirements. The Corporation's petroleum activities are required to be undertaken in accordance with approvals and permits to be and in compliance with applicable laws. The activities must also conform to the long-term exploration and production programme and approved

annual programme. These provisions reflect the status of the GNPC as an operator in the industry.

7.5 Provisions to address possible Cross-border Issues

The Committee further observed that the Bill makes provision for the redress of possible disputes that may result from petroleum discoveries straddling between Ghana the territorial boundaries of Ghana and its neighbours. The Bill provides that where petroleum accumulation extends onto the land or the continental shelf of another country, the State must take steps to reach an agreement with that other country for the most efficient co-ordination of petroleum activities in connection with the petroleum accumulation as well as the apportionment of the petroleum accumulation.

7.6 Introduction of Reconnaissance License

It was further noted that the Bill introduces Reconnaissance Licence into the country's licensing regime in the upstream petroleum sector. The Committee was of the view that such a provision would help promote investment in data acquisition particularly when only 17.2% of Ghana's hydrocarbon Basins are currently under exploration. Since International Oil Companies depends on data available on potential oil exploration basins, the Committee believes the proposed licence would promote investment into the country's upstream industry to accelerate the pace of the full exploration of Ghana's hydrocarbon potential.

7.7 Efficient Exploitation of Petroleum Resources

The Committee also noted that the Bill emphasizes the need to efficiently exploit petroleum resources and conserve resources where necessary. This is reflected in provisions relating to the duration of Petroleum Agreements which has been reduced from the thirty under the PNDCL 84 to twenty-five years (25) under Clause 14 of the Bill. Provisions have also been made to commit contractors to exploration periods and minimum work obligations (Clauses 21 and 23 of the Bill). Restrictions have been put on flaring of gas.

7.8 Environmental Safeguards and Liability

The Committee noted that the Bill has sufficient provisions to safeguard the environment and hold contractors accountable for any environmental damages arising out of petroleum activities. The Bill requires contractors in the conduct of petroleum activities to ensure that account is taken of the environmental principles in the Environmental Protection Agency Act, 1994 (Act 490) and its regulations

and other applicable laws. In this respect, it provides guidance for cessation, decommissioning and removal of petroleum facilities (clause 43) and requires a contractor or licensee to establish a decommissioning fund (clause 45) as well as restore affected land and remove cause of damage or danger to the environment after the termination of petroleum activities (clause 47). Under the Bill, Contractors or licensees will also be held strictly liable for pollution, any loss or damage caused in connection with the decommissioning of petroleum facility. These environmental provisions are also applicable to GNPC when it undertakes petroleum activities under the Act.

7.9 Regulatory Role of the Petroleum Commission

The Committee further noted that the Bill reflects the regulatory mandate given to the Petroleum Commission under the Petroleum Commission Act, 2011 (Act 821). Most of the approvals, licences and permits required for the conduct of petroleum activities are to be obtained from the Petroleum Commission. However, some approvals are to be granted by the Minister in consultation with the Commission.

7.10 Access to Petroleum Data by the GNPC

The Committee noted that the GNPC would have to seek the approval of the Petroleum Commission before they could access petroleum data to carry out their petroleum activities. Being mindful of the fact that the Corporation's core duty is petroleum exploration, it should have unfettered access to petroleum data. To this end, the Committee proposes amendment to achieve this effect.

7.11 Local Content Provisions

The Committee observed that the Bill incorporates provisions that would engender job creation and knowledge transfer to the benefit of Ghanaians. Under the Bill, an obligation is placed on a licensee, contractor, subcontractor or GNPC to employ Ghanaian citizens, with the requisite qualifications and expertise in the conduct of petroleum activities. The Bill also requires the consumption of Ghanaian goods and services so long as they are of standards comparable to international standards. To ensure the realisation of this policy aspiration, the Bill provides for the establishment of a Local Content Fund to provide financial resources for Ghanaian citizens and indigenous Ghanaian companies engaged in petroleum activities. Sources of money for the Fund include contributions from contractors, fines, budgetary allocations and grants. The Committee finds these provisions to be in consonance with policy objectives of the Petroleum (Local Content and Local Participation) Regulations, 2013, L.I. 2204 and believes that the passage of

the Bill into law would promote socio-economic growth of the country through the participation of indigenous Ghanaians and the backward integration of the upstream industry into the economy.

7.12 Provisions relating to health, Safety and Environment

The Committee observed that the Bill provides comprehensive requirements to strengthen the current health and safety standards in the petroleum industry. For instance, Contractors would be required to conduct petroleum activities in a manner which ensures that a high level of safety is achieved, maintained and further developed in accordance with technological developments, best international practice and existing legislations. Contractors would also be required maintain efficient emergency preparedness and implement preventive security measures. They are further required to submit plans for the implementation of safety measures prior to commencement of petroleum activities, adhere to established boundaries of safety zones and suspend petroleum activities in case of emergencies. It is strongly believed that the eventual implementation of these measures would enhance the safety of our petroleum fields and safeguard the environment.

7.13 Provisions for the Making of Regulations

The Committee noted that the Bill provides for the making of a number of secondary legislations to ensure the full implementation of the provisions of the Bill after its passage. Clause 92 of the Bill seeks to empower the Minister to make various Legislative Instruments to provide other matters towards the implementation of the Bill when passed into law. Some of the matters to be covered in the Regulations would include procedures for the granting of petroleum agreements, conditions for open and competitive tendering procedures and direct negotiations, safety and security issues. Regarding the commitment of the Ministry of Petroleum for the development of these Regulations, the Committee was informed that the Ministry has commenced processes for the prompt preparation of Regulations relating to fiscal metering, general petroleum regulations, Data Management, health, safety and environment, drilling and reservoir management.

8.0 PROPOSED AMENDMENTS

- i. **Clause 2 – Amendment proposed** – Line 3, after
~~“exploitation”~~ *insert* “and utilization” (1), *delete*

- ii. **Clause 3 – Amendment proposed** - *Delete* and *insert* the following:

“Petroleum existing in its natural state in, under or upon any land in Ghana, rivers, streams, water courses throughout Ghana, the exclusive economic zone and any area covered by the territorial sea or continental shelf is the property of the Republic of Ghana and shall be vested in the President on behalf of, and in trust for the people of Ghana”.
- iii. **Clause 4 – Amendment proposed** – Line 2, after “governance” *insert* “including” and in line 3, after “transparency” *insert* “and accountability”
- iv. **Clause 7 – Amendment proposed** – Sub-clause (4), line 2, *delete* “or” and *insert* “and may publish the report in”
- v. **Clause 7 – Amendment proposed** – Sub-clause (8), line 2, *delete* “or” and *insert* “and may publish the report in”
- vi. **Clause 8 – Amendment proposed** – Sub-clause (2), line 4, *delete* “or” and *insert* “and may publish the report in”
- vii. **Clause 8 – Amendment proposed** – *Add* the following new Sub-clause:

“(4) The Minister shall, after taking due consideration of any representation made under subsection (3) determine whether or not to close an area or redefine the boundaries of the area”
- viii. **Clause 8 – Amendment proposed** – Sub-clause (2), line 4, *delete* “or” and *insert* “and may publish the report in”
- ix. **Clause 8 – Amendment proposed** – Sub-clause (4), line 3, *delete* “or” and *insert* “and may publish the report in”
- x. **Clause 9 – Amendment proposed** – Sub-clause (1), line 1, *delete* “Petroleum”
- xi. **Clause 9 – Amendment proposed** – Sub-clause (2), *delete* and *insert* the following:

“(2) A reconnaissance licence grants to the licensed person, a non-exclusive right to undertake

 - (a) Data collection including seismic surveying and shallow drilling; and

- (b) Processing and interpretation or evaluation or petroleum data in the area specified in the licence”
- xii. **Clause 9 – Amendment proposed** - *Add* the following new Sub-clause:
“(4) The Republic may enter into a petroleum agreement with a person who has the requisite technical competence and financial capacity to fulfil the obligations of the reconnaissance activities and other requirements as prescribed.”
- xiii. **Clause 9 - Amendment proposed** – Sub-clause (4), line 2, *delete* “unless otherwise determined by the Minister” and *insert* the following:
“but the Minister may where necessary extend the licence for a period not exceeding two years”
- xiv. **Clause 10 - Amendment proposed** – Sub-clause (6), “The Minister shall publish an invitation to tender or an invitation for direct negotiations in the Gazette and at least two state owned daily newspapers or any other medium of public communication.”
- xv. **Clause 10 - Amendment proposed** - Sub-clause (7) “ A person who wishes to submit a bid or participate in negotiations shall submit an expression of interest to the Minister , as prescribed. “
- xvi. **Clause 10 - Amendment proposed** - Sub-clause Clause (8) “ Where the Minister receives more than one expression of interest, a tender process in accordance with subsection 92) shall be undertaken.”
- xvii. **Clause 10 - Amendment proposed** - Sub-clause (9):- “ **Notwithstanding subsection (3)** the Minister may, in consultation with the Commission, determine that a petroleum agreement may be entered into by direct negotiations without public tender, where direct negotiations represent the most efficient manner to achieve optimal exploration, development and production of petroleum resources in a defined area.”
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- ~~xviii. **Clause 10 – Amendment proposed** – Sub-clause (14), paragraph (b), *delete* “on behalf of the Republic”~~
- xix. **Clause 11 – Amendment proposed** – *Add* the following new

Sub-clause: "(2) An authorisation of the Minister shall not be effective if it is not ratified by Parliament in accordance with article 268 of the Constitution.

- xx. **Clause 11** – **Amendment proposed** - Sub-clause (2), paragraph (b), line 3, after "Minister" *insert* "in consultation with the Commission"
- xxi. **Clause 15** – **Amendment proposed** - Line 3, after "Minister" *insert* "in the case of a contractor, and the Commission, in the case of a subcontractor"
- xxii. **Clause 17** – **Amendment proposed** - Sub-clause (2), line 2, *delete* "in the manner" and *insert* "as"
- xxiii. **Clause 17** – **Amendment proposed** - Sub-clause (3), lines 1 and 2, *delete* "in the manner" and *insert* "as"
- xxiv. **Clause 20** – **Amendment proposed** - *Add* the following new Sub-clause: "(2) A Petroleum Agreement that is reviewed under subsection (1) is subject to ratification by Parliament if the review results in material change."
- xxv. **Clause 21** – **Amendment proposed** – Sub-clause (1), line 2, after "is" *insert* "subject to subsection (5)"
- xxvi. **Clause 24** – **Amendment proposed** – *Add* the following new Sub-clause:
"(6) This section applies to the corporation where it undertakes petroleum activities under section 11."
- xxvii. **Clause 25** – **Amendment proposed** – Sub-clause (2), paragraph (a), lines 2 and 3, *delete* "and the Commission" and after "party" at end of line 3, *insert* "and the Minister shall inform the Commission within forty-eight hours"
- xxiv. **Clause 25** – **Amendment proposed** – Sub-clause (10), line 1, after "cases" *insert* "recommend to the Minister to"
- xxvi. **Clause 32** – **Amendment proposed** – Line 3, after "Corporation" *insert* "in consultation with the Commission"
- xxv. **Clause 33** – **Amendment proposed** – Sub-clause (4), line 2, before "Commission" *insert* "Minister, Environmental Protection Agency, and the"

- xxviii. **Clause 38 – Amendment proposed** - *Add* the following new Sub-clause:
“(2) A person shall not start the operation of a facility, referred to in subsection (1) if that person does not have a permit granted by the Commission.”
- xxix. **Clause 39 – Amendment proposed** – Sub-clause (2), paragraph (a), line 1, before “pipeline” *delete* “the”
- xxx. **Clause 39 – Amendment proposed** – Sub-clause (3), *delete* and *insert* the following:
“(3) Where the information contained in the description provides a proposal for the implementation of an activity, the Minister may require the applicant to provide an alternative proposal.”
- xxxi. **Clause 39 – Amendment proposed** - Sub-clause (4), *delete* and *insert* the following: “(4) The Minister may, in consultation with relevant agencies grant an exemption from a particular requirement under subsection (1) where the circumstances require.”
- xxxii. **Clause 40 – Amendment proposed** - Sub-clause (2), paragraph (a), *delete* and *insert* the following: “stipulate tariffs set by the Commissioner for use of the facility”
- xxxiii. **Clause 42 – Amendment proposed** - Sub-clause (1), line 2, *delete* “provide” and *insert* “grant”
- xxxiv. **Clause 42 – Amendment proposed** - Sub-clause (3), line 3, *delete* “pipeline” and *insert* “facility” and in lines 2 and 3, *delete* “the owners of the pipeline”
- xxxv. **Clause 42 – Amendment proposed** - Sub-clause (9), line 1, after “may” *insert* “in consultation with the Minister”
- xxxvi. **Clause 42 – Amendment proposed** - Sub-clause (10), line 2, after “may” *insert* “in consultation with the Minister” and *delete* “stipulate” and *insert* “determine”
- xxxvii. **Clause 42 – Amendment proposed** - Sub-clause (11), line 2,

after "may" *insert* "in consultation with the Minister".

- xxxvi. **Clause 43** – **Amendment proposed** - Sub-clause (7), line 2, *delete* "prescribed" and *insert* "provided"
- xxxvii. **Clause 44** – **Amendment proposed** - Sub-clause (2), paragraph (b), *delete* "an improvement of the" and *insert* "a new or amended"
- xxxviii. **Clause 47** – **Amendment proposed** - Head note, *delete* "lands" and *insert* "area"
- xxxix. **Clause 49** – **Amendment proposed** - Sub-clause (2), line 1, after "contractor" *insert* ", subcontractor" and in line 3, after "with" *insert* "Regulations,"
- xl. **Clause 49** – **Amendment proposed** - Sub-clause (3), line 1, after "contractor" *insert* ", subcontractor" and in line 3, after "with" *insert* "Regulations," and further in line 4, *delete* "guidelines"
- xli. **Clause 51** – **Amendment proposed** - Sub-clause (2), paragraph (c), line 1, before "take" *insert* "in collaboration with relevant authorities"
- xlii. **Clause 51** – **Amendment proposed** - Sub-clause (3), line 3, *delete* "without hindrance to the duty of secrecy" and *insert* "in spite of any requirement for confidentiality"
- xliii. **Clause 59** – **Amendment proposed** – Sub-clause (1), line 1, *delete* "a contractor or a licensee" and *insert* "licensee parties or contractor parties"
- xliv. **Clause 62** – **Amendment proposed** – Sub-clause (1), line 1, before "The Commission" *insert* "For the purpose of technology transfer" and in line 4, at end, *add* "where applicable"
- xlv. **Clause 66** – **Amendment proposed** - Sub-clause (1), paragraph (b), *delete* "but not exceeding the cedi equivalent of two million United States Dollars to be deducted and paid by the contractor or licensee as prescribed"
- xlvi. **Clause 67** – **Amendment proposed** – *Add* the following new Sub-clause:
" (3) The Minister shall approve the annual budget of the Fund."

- xlvi. **Clause 69 – Amendment proposed** – Sub-clause (2), lines 2 and 3, *delete* “with reference to the weighted market price achieved by the contractor for the same period”
- xlvi. **Clause 75 – Amendment proposed** – Sub-clause (8), line 1, before “may” *insert* “and other relevant authorities”
- xlix. **Clause 75 – Amendment proposed** – Sub-clause (9), lines 1 and 2, *delete* “Ghana Maritime Authority and other”
- l. **Clause 77 – Amendment proposed** – Sub-clause (1), line 2, *delete* “or any other entity”
- li. **Clause 77 – Amendment proposed** – Sub-clause (1), lines 6 and 7, *delete* “or the other entity”
- lii. **Clause 80 – Amendment proposed** - *Add* the following new paragraph:
“(f) plugging and abandonment of a well under section 46.”
- liii. **Clause 81 – Amendment proposed** – Head note, at end *add* “for Pollution Damage”
- liv. **Clause 81 – Amendment proposed** – Sub-clause (2), line 1, before “contractor” *insert* “licensee or” and in line 4, *delete* “activity” and *insert* “activities”
- lv. **Clause 81 – Amendment proposed** – Sub-clause (3), *delete* and *insert* the following:

“(3) Where pollution damage occurs as a result of petroleum activities conducted without proper authorisation (a) the person that conducted the petroleum activities; and (b) any other person who has taken part in the petroleum activities, and who know or should have known, that the activities were conducted without proper authorisation are strictly liable for the damage
- lvi. **Clause 81 – Amendment proposed** – Sub-clause (4), line 1, *delete* “sub-contractor” and in line 2, *delete* “take” and *insert* “institute” and further in lines 2 and 3, *delete* “or pollution damage”
- lvii. **Clause 81 – Amendment proposed** – *Add* the following new
Sub-clause:
“(5) Where the remedial measures are not taken within the time limit set by the Commission or the Ministry, a third part might be engaged for the performance of the measures, and

the licensee, contractor or the Corporation shall be liable for any related costs.”

- lviii. **Clause 82 – Amendment proposed** – *Delete and insert the following:*

“Compensation with pollution damage

82. (1) Where there are several contractor parties under a petroleum agreement, or several licensees under one licence, a claim for compensation for pollution damage shall initially be made against the operator.

(2) Where there are several licensees or contractor parties and one of them fails to pay the share of the compensation, the unpaid amount shall be paid by the other licenses or contractor parties in proportion to their participating interest.

(3) Where an event of force majeure results in pollution damage, the Minister on the advice of the Commission shall assess the damage taking into account

(a) the scope of the activity

(b) the measures taken to avoid or mitigate the effects of the force majeure event;

(c) the situation of the part that has sustained the damage as a result of the force majeure event; and

(d) the insurance opportunities for each party

(4) On the basis of the assessment, the Minister shall require the person liable for the pollution damage to pay compensation”

- lix. **Clause 91 – Amendment proposed** – delete and insert the follows:

“ Offences and penalties

91. (1) A person who

(a) interferes with or obstructs the

(i) Corporation,

(ii) a contractor or

(iii) Subcontractor

or their agents or employees in the exercise of a right under this Act; or

- (b) wilfully obstructs, hinders, or assaults any other person in the exercise of a right or power in the performance of a function under this Act;

commits an offence and is liable on summary conviction to a fine of not less than one thousand penalty units and not more than ten thousand penalty units, and where the offence continues, to a fine of not more than one thousand penalty units for each day during which the offence continues or to a term of imprisonment of not less than one year and not more than three years or to both the fine and term of imprisonment.

- (2) Except as otherwise provided under this section, a person who undertakes petroleum activities in contravention of this Act, commits an offence and is liable on summary conviction to a fine of not less than ten thousand penalty units and not more than fifty thousand penalty units and where the offence continues, to a fine of not more than one thousand penalty units for each day during which the offence continues or to a term of imprisonment of not less than one year and not more than three years or to both the fine and term of imprisonment.
- (3) Where an offence under subsection (1) or (2) is committed by a body corporate or a partnership or other firm, every director or officer of that body corporate or member of the partnership or any other person concerned with the management of the firm shall be deemed to have committed that offence and is liable on summary conviction to a fine of not less than one hundred thousand penalty units and not more than two hundred thousand penalty units.
- (4) A person shall not be convicted of an offence under subsection (3) if it is proved that
 - (a) due diligence was exercised to prevent the commission of the offence; and
 - (b) the offence was committed without the knowledge, consent or connivance of that person.
- (5) A person
 - (a) other than the Corporation who engages in the exploration, development or production of petroleum without a petroleum agreement commits an offence and is liable on summary conviction to a fine of not less than four hundred thousand penalty units and not more than five hundred thousand penalty units;

- (b) who assigns a petroleum agreement directly or indirectly either in whole or in part, without the prior written approval of the Minister commits an offence and is liable on summary conviction to a fine of not less than one hundred thousand penalty units and not more than two hundred thousand penalty units;
- (c) who commences to implement a plan of development and operation without the approval of the Minister shall
 - (i) in the first instance pay the Commission an administrative penalty of the Ghana Cedi equivalent of One Million United-States Dollars for each day of the first ninety days that the operation is carried out without approval; and
 - (ii) after the ninety day period referred to in subparagraph (i), pay an additional administrative penalty of not more than eight hundred thousand penalty units;
- (d) who fails to submit a decommissioning plan or fails to implement a decommissioning plan required by section 43
 - (i) shall pay to the Commission an administrative penalty of the Ghana Cedi equivalent of one hundred and twenty thousand United States Dollars for each day of the first thirty days that the decommissioning plan is not submitted or implemented after the expiration of the period for the submission of the decommissioning plan or the implementation of the decommissioning plan; or
 - (ii) is after the thirty day period, liable on summary conviction to an additional fine of not less than two hundred thousand penalty units and not more than five hundred thousand penalty units or to a term of imprisonment of not less than one year and not more than three years or to both the fine and term of imprisonment;
- (e) who contravenes section 23 (2)
 - (i) shall pay the Commission an administrative penalty of the Ghana Cedi equivalent of one hundred thousand United States Dollars for each of the first thirty days the

amount becomes due to the Corporation in addition to the amount owed under subsection (2) of section 23; or

- (ii) is after the thirty day period liable on summary conviction to a fine of not less than one hundred thousand penalty units and not more than two hundred thousand penalty units in addition to the amount owed under subsection (2) of section 23;
 - (f) who fails to pay the annual fees in respect of the acreage to which the petroleum agreement relates for the relevant period shall
 - (i) pay the Commission an administrative penalty of five per cent of the annual fee for each day of the first thirty days after the annual fee becomes due in addition to outstanding annual fee; and
 - (ii) after the thirty day period referred to in subparagraph (i), pay to the Commission an administrative penalty of one hundred thousand penalty units, in addition to the outstanding annual fee; or
 - (g) who fails to comply with a request to furnish information required under this Act, within the period specified in the request, shall pay to the Commission an administrative penalty of ten thousand penalty units in the first instance and a further penalty of ten per cent of the penalty for each day that the information is not furnished”.
- lix. **Clause 93 –Amendment proposed** –Interpretation of “indigenous Ghanaian Company”, paragraph (ii), line 4, *delete* “and intermediate and unskilled”
- lx. **Clause 93 –Amendment proposed** – Interpretation of “mmscfd”, *delete* “the measurement unit for petroleum” and *insert* “million standard cubic feet a day”
- lxi. **Clause 93 – Amendment proposed** – Interpretation of “petroleum subcontractor”, line 3, before “services” *insert* “goods and”
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- lxii. **Clause 93 – Amendment proposed** – Interpretation of “pollution damage”, line 4, before “wastes” *insert* “substance or”

- lxiii. **Clause 93 – Amendment proposed** – Interpretation of “small and medium enterprise”, *delete* and *insert* the following:
“small and medium enterprise “means an industry project, undertaking or economic activities that employs not more than one hundred persons with an asset base that is not more than One Million Ghana cedis but excludes land buildings”
- lxiv. **New Clause – Amendment proposed** – *Add* the following new clause after clause 67:

“Accounts and Audit

- (1) The Local Content Committee shall keep books of account and proper records in relation to them in the form approved by the Auditor-General.
- (2) The Commission shall submit the accounts of the Fund to the Auditor-General for audit within three months after the end of the financials year.
- (3) The Auditor-General shall, not later than three months after the receipt of the accounts, audit the accounts and forward a copy of the audit to the Minister.
- (4) The financial year of the Fund is the same as the financial year of the Government.

Annual Report

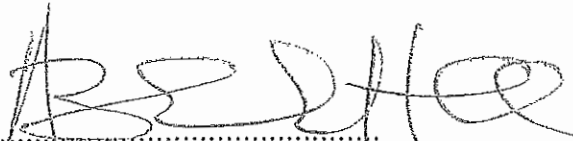
- (1) The Committee shall, within one month after receipt of the audit report, submit an annual report to the Minister covering the operations of the Fund for the year to which the report relates.
- (2) The annual report shall include the report of the Auditor-General.
- (3) The Minister shall within one month after the receipt of the annual report submit the report of Parliament with a statement that the Minister considers necessary.”

9.0 CONCLUSION & RECOMMENDATION

The Committee has duly scrutinized the Bill and is of the view that the passage of the Bill will strengthen the existing legal regime by complementing the provisions of the Petroleum Commission Act, 2011 (Act 821) and the Petroleum Revenue Management Act, 2011 (Act 815) and other legislations to govern the country’s upstream petroleum industry.

The Committee therefore recommends to the House to adopt its Report and to pass the Petroleum (Exploration and Production) Bill, 2014 in accordance with Article 106 of the Constitution.

Respectfully submitted.


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HON. ALHAJI AMADU B. SOROGHO
CHAIRMAN, COMMITTEE ON
MINES AND ENERGY


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PEACE FLAWOYIFE (MS.)
CLERK TO THE COMMITTEE

MARCH, 2016

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