

OIL & GAS POLICY EXPERT QUESTIONS
GHANA'S FISCAL REGIME FOR
OIL PRODUCTION

**WAS GHANA RIGHT IN CHOOSING
ROYALTY TAX SYSTEM
FOR THE OIL SECTOR?**

BY NANA ADJOA HACKMAN

ABSTRACT:

Under her Model Petroleum Agreement (MPA), Ghana, a newcomer in the global oil industry has adopted the Royalty Tax System to govern the fiscal regime for the country's petroleum sector. Even before production tentatively begins in 2010 when the agreement would be put to test, critics say that Ghana would obtain greater financial benefit under the terms of a production-sharing contract (PSC). This paper discusses Ghana's MPA and contrasts this to the argument that the country would benefit from using PSCs. The paper describes the MPA, the advantages and disadvantages of an R/T system and those of the PSC System. The paper exceeds the argument that form matters, and points to the importance of either systems having to achieve a stable consensus between the main parties involved.

ABBREVIATIONS

GNPC	GHANA NATIONAL PETROLEUM COMPANY
IOC	INTERNATIONAL OIL COMPANY
IRS	INTERNAL REVENUE SERVICE
MPA	MODEL PETROLEUM AGREEMENT

NOC	NATIONAL OIL COMPANY
NPV	NET PRESENT VALUE
OPEC	ORGANISATION OF PETROLEUM EXPORTING COUNTRIES
PSC	PRODUCTION SHARING CONTRACT

1. INTRODUCTION

In 2007, Ghana announced her first oil discovery in the Cape 3 Points region of the Country's coastal waters. Since then, several other discoveries have been made in the same region (shown in the map below).¹



Ghana's coastline – Map

¹ This map showing Ghana's offshore oil fields, terminal and refinery was taken from http://www.oxfamamerica.org/whatdowedo/where_we_work, (last visited on 9th April, 2009).

With an estimate of over a billion barrels of oil in these offshore waters, there lies an enormous opportunity to use this new found wealth to propel the country to greater levels of social and economic development.

Needless to say, how much of this potential can be realized would depend a lot on the country's fiscal regime for the new industry. Indeed for any government, the goal in designing a fiscal regime would be to make the sector attractive to investors as well as to capture as much of the economic rent as possible in the form of taxes.

Governments around the world usually adopt one of two major fiscal systems for petroleum. These are the Royalty Tax/ Licensing System and the Contractual System. The Contractual System comprises of PSCs and Service Agreements.² The latter is however only in use in few petroleum producing countries around the world which have huge amounts of proven reserves, typically OPEC countries and Brazil.³

Ghana has chosen to adopt the Royalty Tax System to govern the fiscal regime for her petroleum sector. According to the NOC, GNPC, the state has chosen the Royalty Tax System in order to avoid high exposure in petroleum exploration and production activity since the system allows the state to benefit from the exploration of its resources without making any financial contribution.⁴ This is the basis of the tax package contained in the MPA, negotiated and entered into with the oil companies.

² Blake, J., Roberts, C., *Comparing Petroleum Fiscal Regimes Under Oil Price Uncertainty*, Resources Policy 31 (2006) 95-105. Available at www.sciencedirect.com (last visited on 9th April, 2009).

³ Le Leuch, H., *Contractual Flexibility in New Petroleum Investment Contracts*, in Walde T., Beredjick N. (eds.), *Petroleum Investment Policies in Developing Countries*, (Kluwer, 1988)

⁴ *Ghana: Framework for Managing Upstream Petroleum Industry* at <http://www.modernghana.com/news/> (last visited on 12th April 2009).

However, even before production commences in 2010 when the agreement would be put to test, critics have argued that Ghana would obtain much more benefit under the terms of a PSC than under the Royalty Tax system. This paper looks at the advantages and disadvantages of the PSC against the Royalty Tax system in light of Ghana's decision to adopt the latter, with the aim to assess whether the country could indeed obtain greater benefit under a PSC.

In Chapter two the writer outlines the Royalty Tax based fiscal provisions contained in the MPA. Chapter three discusses the advantages and disadvantages of the Royalty Tax System, while chapter four focuses on a discussion of the advantages and disadvantages of the PSC. In the final chapter, the writer evaluates the fiscal terms of the MPA, giving consideration to whether better terms could have been achieved under a PSC. The paper concludes that more or less the same financial result could be attained through the right combination of taxes and with effective monitoring and tax administration, regardless of which system is adopted.

2. FISCAL PROVISIONS OF THE MPA

The MPA is a product of the Petroleum Exploration and Production Law, PNDC Law 84. It serves as a guide to negotiating terms and conditions of petroleum agreements among government, GNPC and the oil companies. As such, the MPA contains provisions on the licence area (Block), the period of exploration, work programme, cost of work, monitoring, relinquishment, decommissioning, fiscal provisions (tax) among others.⁵

Under PNDC Law 84 and the MPA, the fiscal package consists of royalty, carried interest, paying interest, additional oil entitlement, petroleum income tax and annual surface rental. There are also “indirect tax” obligations in the form of “local content” requirements, domestic supply obligations and decommissioning.⁶

2.1 ROYALTY

The MPA and PNDC Law 84 provide that a rate between 4% and 12.5% would be charged on gross production of oil and gas as royalty.

⁵ Ibid

⁶ Ibid

The exact percentage is left to be defined between government and the oil companies.⁷

In respect of the discoveries made by Kosmos Energy Ghana and Tullow Ghana Limited, government is set to receive a royalty rate of 5% of gross production beginning next year (2010). The amount may be taken in the form of cash or oil.⁸

2.2 CARRIED INTEREST

This is a participating interest in the oil exploration and production venture which provides the state with an entitlement to a share in the oil produced without having to contribute to the costs of exploration and development.⁹

The Law provides for carried interest to be levied at a rate between 7.5% and 15%.¹⁰ Under the agreements with the oil companies, the government of Ghana through GNPC has a 10% carried interest. It is to be levied after deduction of royalty and operating costs, but before the deduction of exploration and development costs from gross production. Like royalty, it can also be taken in the form of oil and cash.¹¹

⁷ Ibid

⁸ Ibid

⁹ Ibid

¹⁰ Petroleum (Exploration and Production) Law, 1984, P.N.D.C Law 84

¹¹ See *Ghana: Framework for Managing Upstream Petroleum Industry* supra note 4

2.3 ADDITIONAL INTEREST

This is a paying interest which the state has an option to exercise. Should this be exercised, the state through GNPC would be required to pay its proportionate share of development and production costs.¹²

The option is not exercisable during the exploration and appraisal stages. Indeed the Petroleum Agreement provides that the option is exercisable within sixty days of the determination by an investor that an operation would be commercially and financially viable.¹³

The option may be exercised at an average rate of 3.75% and may be exercised in one of three ways:¹⁴

- (i) By all parties in the joint venture (including the state/GNPC) going for project finance and offering the proven reserves of the block as security.
- (ii) Where the state's share in the development and production costs is paid by the other partners in the venture and is reimbursed by the state from its share of production over a negotiated period of time.

¹² Ibid

¹³ Ibid

¹⁴ Ibid

- (iii) Where all parties finance the venture from their own resources, with the state making an upfront payment of its share when cash calls are made.

2.4 PETROLEUM INCOME TAX

This is a profit related tax levied on income accruing to the oil companies after all costs have been deducted. Both under the Petroleum Income Tax Law¹⁵ and the MPA, it is to be levied at a rate of 35%. The recent agreements with Kosmos and Tullow provide for 35% income tax accruing to the state either in the form of oil or cash.

2.5 ADDITIONAL OIL ENTITLEMENT

This is Ghana's version of the windfall tax. The provision for this tax in the petroleum agreements entitles Government to levy a tax on any excess over the company's targeted rate of return in years when such an excess or windfall occurs.¹⁶

TAX	MPA RATE	TULLOW/KOSMOS
ROYALTY	4% - 12.5%	5%
CARRIED INTEREST	7.5 - 15%	10%
ADDITIONAL INTEREST	3.75% (average)	-

¹⁵ Petroleum Income Tax Law, (1987) PNDC Law 188

¹⁶ Model Petroleum Agreement of Ghana, Article 10 available at <http://www.gnpcghana.com/aboutus/newsevents> (last visited on 13th April,2009)

INCOME TAX		35%	35%
ADDITIONAL OIL ENTITLEMENT		-	-

Table 1: compiled by author

3. THE ROYALTY TAX SYSTEM

This system was also known traditionally as the concessionary system. It can be described as an agreement between government and an IOC whereby the “government grants the IOC the exclusive right to explore for, develop, produce, transport and market the petroleum resource at its own risk and expense within a fixed area for a specific amount of time.”¹⁷

Under the old concession, the IOC was given ownership of the oil in the ground and as such had exclusive control over all operations under the concession. The state only generated its revenues through royalties and income tax.

Under the modern Royalty Tax System, title to oil only transfers to the IOC at the wellhead. At this point, the IOC takes title to gross production minus royalty oil, unless of course the state has agreed to be paid royalty in cash.¹⁸

The state also has a more direct involvement and control over operations through state participation.¹⁹ In addition to royalty and income tax, the state may also now earn revenue from bonus payments, local taxes, import and

¹⁷ Nakhle, C., *Petroleum Taxation: Sharing the oil wealth: a study of petroleum taxation yesterday, today and tomorrow* (Routledge, 2008)

¹⁸ Johnston, D., *How to Evaluate the Fiscal Terms of Oil Contracts* in Humphreys et al (eds.) *Escaping the Resource Curse* (New York: Columbia University Press, 2007)

¹⁹ See Le Leuch *supra* note 3 at 89

export duties, domestic supply obligations and state participation.²⁰ These are all features that are present in the design of Ghana's petroleum fiscal regime, including the addition of an excess profit tax.

3.1 ADVANTAGES OF THE ROYALTY TAX SYSTEM

From the government's point of view, the advantages of this system include the following:

- It is relatively risk free. The oil company bears all the financial risks as well as provides the technical expertise, equipment and capital.²¹ Indeed, this is the main reason stated by GNPC why Ghana has adopted this system.
- The system in its modern form makes room for state participation through the NOC. This allows the government to exercise some control or at least have a say on decisions regarding the exploitation of its resource.²² Apart from matters of control, state participation also enables the NOC and its personnel to gather the needed experience and expertise to be able to take over operations in the future.²³
- In addition to royalties and income tax, government can earn additional revenue under the modern licensing system through

²⁰ Andrews –Speed, P., *The Structure of Fiscal*, Mineral and Petroleum Taxation Distance Learning Study Guide: unit 4 (CEPMLP, spring 2009) available at <https://my.dundee.ac.uk/webapps/portal/frameset.jsp>

²¹ See Le Leuch *supra* note 3 at 87

²² North Sea Oil Policy: Draft Statement, Memorandum by the Secretary of state for Energy, Uk (1974) available at <http://filestore.nationalarchives.gov.uk>

²³ Klueh, U., et al, *Inter-Sectoral Linkages and Local Content in extractive Industries and Beyond- The Case of Sao Tome and Principe* IMF Working Paper WP/07/213 (2007).

a combination of other taxes and obligations placed on the IOC²⁴.

- Ring fencing of particular activities or individual projects is also permitted under the system to limit the extent to which oil companies can obtain tax deductions from one activity or project against the other. This increases the government's chances of receiving early revenue in the form of taxes. It also ensures that as the petroleum industry grows in an area, new entrants are not discriminated against by reason of the fact that they have no income against which to deduct expenses incurred during exploration and development.²⁵
- This system may be designed to achieve a high level of adaptability to changes in the commodity price if the main tax instrument is income tax, supplemented by a form of resource rent tax i.e. if it is designed to tax profits and NPV.²⁶

3.2 DISADVANTAGES OF THE ROYALTY TAX SYSTEM

From the government's stand point, the disadvantages of this system include the following:

- Bidding rounds for licensing under this system costs a considerable amount of money and time. Therefore unless a bidding round attracts financially and technically strong bidders, the process would not be worthwhile for government.²⁷

²⁴ See Andrews-Speed *supra* note 21

²⁵ See Nakhle *supra* note 18 at 35

²⁶ See Andrews-Speed *supra* unit 2 *Instruments of Taxation*

²⁷ Radon, J., *How to Negotiate an Oil Agreement* in Humphreys *supra* note 19 at 99

- Also, companies tend to be quite conservative in their bid offers for concession areas which are considered risky in the sense that not much is known about the prospectivity of the area. This is especially so in virgin, previously unexplored areas. The government would therefore be disadvantaged if it is relying on substantial up-front payments.²⁸
- This system is not as flexible as the PSC in the sense that it is not easily adaptable to local conditions in a country i.e. the characteristics and location of the field such as the water depth and geological factors.²⁹ Such flexibility is key to attracting investors and this is one reason why many governments choose the PSC over the system of licensing.

²⁸ Ibid

²⁹ See Le Leuch *supra* note 3 at 91

4. THE PSC SYSTEM

The PSC may be described as an arrangement where a host country appoints an IOC as a contractor to operate at its sole risk and expense but subject to the control of the host country.³⁰ The IOC is not entitled to a repayment of its expenses if exploration is unsuccessful. However, if exploration results in a commercial discovery, then the IOC has a contractual right to repayment of its costs out of the oil and gas produced from the contract area. The portion of total production allocated for this is referred to as ‘cost recovery’ or ‘cost oil.’³¹

The balance of total production less cost recovery (known as ‘profit-oil’ or production split’) is then shared between the government and the IOC on the basis of a pre-determined percentage.³² The IOC’s share of the profit is then subject to income tax.

4.1 ADVANTAGES OF THE PSC SYSTEM

³⁰ Blinn et al, International Petroleum exploration and exploitation Agreements: Legal Economic and Policy Aspects (Euromoney Publications).

³¹ Ibid.

³² See Nakhle *supra* note 18 at 36

Governments tend to adopt PSC's for some of their perceived advantages including the following:

- The host government retains ownership and control over the resources. The state by itself or through its NOC is the only possible owner of the right to the resource. Ownership of the resources is a very sensitive matter and reflects the state's claim to sovereignty over its natural resources. Under a PSC therefore, title to the contractor's share of production only passes at the export point or at some other agreed delivery point.³³
- In addition, equipment and facilities purchased by the IOC to be used within the country becomes the property of the host government. Title may pass either immediately after the facilities arrive in the country or upon the commissioning or start of work.³⁴
- The PSC system enables the government to avoid the risks associated with exploration and development. The oil company bears all the risks and expenses though these may be recovered if the operation is successful.³⁵
- Apart from profit oil and income tax, a PSC may be designed with other elements to enable the host country to increase its take as well as earn some early revenue.³⁶ Elements usually included in this hybrid form of PSC include royalty, state

³³ See Blinn *supra* note 31 at 73

³⁴ Johnston, D., International Petroleum Fiscal Systems and Production Sharing Contracts (Tulsa, Penwell, 1994).

³⁵ See Nakhle *supra* note 18 at 36

³⁶ *Ibid.*

participation, bonuses, and domestic supply obligations. A ring fence may also be imposed on particular activities and areas to prevent IOCs from offsetting costs incurred under one licence against profits from another.³⁷

- For low profitability project's government take is likely to be much higher under a PSC. This is because of the possibility of placing a limit on yearly cost recovery amounts. This guarantees additional front-ended revenue for government.³⁸
- The PSC is also well known for its flexibility. It is possible to design each PSC to adapt to different geographical and geological conditions in the country. This flexibility is needed to make up for differences between different fields or licence areas which cause the cost of development of some areas to be much higher than others.³⁹ In addition, certain terms of the contract, for instance royalty, may be subject to sliding scales in order to make them more sensitive to price volatility and changing costs of production.⁴⁰ This flexibility and adaptability of the PSC can be a source of encouragement for the development of marginal fields.

4.2 DISADVANTAGES OF THE PSC SYSTEM

Disadvantages of this system as far as government is concerned include the following:

³⁷ Ibid.

³⁸ Baunguard, T., *A Primer on Mineral Taxation* IMF Working Paper WP/01/139 (2001) available at <https://my.dundee.ac.uk/webbapps/portal/frameset.jsp>

³⁹ see Nakhle *supra* note 18 at 36

⁴⁰ See Andrews-Speed *supra* note 21

- Due to the fact that title to all facilities and equipment purchased for production passes to the host government, legally, the obligation of decommissioning and the huge costs associated with it would also be borne by the state. To avoid being saddled in such a manner, care should be taken by government to ensure that the obligation to decommission is clearly assigned to the IOC in the contract.⁴¹ A special fund may also be set up during the period of production to take care of the costs associated with abandonment and decommissioning at the end of field life.
- It is possible for a government to have difficulties with regulation under the structure of the PSC. Because the PSC is in many cases designed as a self-contained law, it lacks the checks and balances in the form of a regulatory regime usually associated with the licensing system. The government then becomes torn between making more profits and enforcing regulation on things like environmental practices, thereby reducing its profits.⁴²

⁴¹ Tordo, S., *Fiscal Systems for Hydrocarbons Design Issues*, World Bank working Paper NO.123.

⁴² See Radon *supra* note 28

5. THE WAY FORWARD

The last two chapters make it obvious that despite the basic differences in the form of the Royalty Tax and PSC systems, the two systems can in practise be packaged in very similar ways to achieve identical results.

One instance of the above is the imposition of royalty. Even though the traditional PSC is not compatible with the collection of royalties, some PSCs have in recent times been combined with royalties.⁴³ Like in the concessionary system, royalty in a PSC is the first to be deducted out of production, providing early revenue to the government.⁴⁴ Under both systems, government would be able to apply a sliding scale to the royalty to make it less regressive. Ghana would therefore be able to achieve the same effect from royalty under a PSC as it does under the current system.

In addition, both systems allow a combination of bonuses, state participation, domestic supply obligations, additional taxes to capture a share of windfall for the host country etc. This being the case, it would seem that whatever fiscal package Ghana can obtain under the PSC is also attainable under the Royalty-tax system which it has already adopted.

⁴³ See Johnston *supra* note 35 at 53

⁴⁴ Ibid.

The computation below shows that Ghana's current fiscal package when translated into a PSC would yield the same amount of benefit expected. The only difference being that its lifting entitlement would be more under a PSC.

Royalty 5% Cost Recovery Limit (NIL) Carried Interest 10%		Income Tax 35% Assumed costs \$10/BBL Oil Price \$58/BBL
	Gross Revenue	
Company Share	\$58.00	Government Share
	<u>Royalty 5%</u>	\$2.09
	\$55.91	
	<u>Deductions</u>	
\$10.00		
Assumed Costs	\$45.91	Taxable Income
	Carried Interest 10%	\$4.59
\$41.32	Income Tax 35%	\$14.05
(\$14.05)		
\$27.27		
<hr/>		<hr/>
\$37.27	Division of Gross Revenue	\$20.73
\$27.27	Division of Cash flow	\$20.73
57%	Take	43%
27.27/(58.00-10.00)		20.73/(58.00-10.00)
96%	Lifting Entitlement	4%
(58.00-2.09)/58.00		(2.09)/58.00

Table 2: Royalty/Tax System (based on oil price on 07-05-09). By author with guidance from Johnston, D., How to evaluate the fiscal terms of oil contracts

Royalty 5% Cost Recovery Limit 50% Carried Interest 10%		Income Tax 35% Oil Price \$58.00/BBL Assumed Costs \$10.00/BBL
	Gross Revenues	
Contractor Share	\$58.00	Government Share
	<u>Royalty 5%</u>	\$2.09
	\$55.91	
	Cost Recovery limit 50%	
\$10.00	<hr/>	
Assumed Costs	\$45.91 Profit Oil	
	Profit Oil Split 90/10%	\$4.59
\$41.32	Income Tax 35%	\$14.05
(\$14.05)		
\$27.27		

\$3.27	Division of Gross Rev.	\$20.73
\$27.27	Division of Cash flow	\$20.73
57%	Take	43%
$\$27.27/(\$58.00-\$10.00)$		$\$20.73/(\$58.00-\$10.00)$
88%	Lifting Entitlement	12%
$(\$10.00+\$41.32)/\$58.00$		$(\$2.09+\$4.59)/\$58.00$

Table 3: PSC (based on oil price on 07-05-09). By author with guidance from Johnston, D., How to evaluate the fiscal terms of oil contracts

It is obvious then that from a purely fiscal point of view, it does not matter which one of the two systems Ghana adopts. The importance of the distinction between the two systems is then really a matter of law and politics, when it comes to the sensitive issues of title, ownership and sovereignty. On the fiscal front, what really matters in the author's opinion is the way in which different tax instruments are combined to achieve the government's objectives, be it under the Royalty-tax or PSC system.

An ideal fiscal package has been described as 'one that the parties have an incentive to adhere to.'⁴⁵ It is one that not only adapts well to price fluctuations but also ensures that "government take" corresponds to increases in economic rent, without causing the IOC to feel too much of a pinch.⁴⁶

Ghana's fiscal package for petroleum should therefore aim at achieving as much as possible the characteristics of neutrality and efficiency, progressivity, flexibility and stability. There should also be an attractive combination of allowances guaranteed to complement the tax elements. Additionally, the roles

⁴⁵ See Le Leuch *supra* note 3 at 82

⁴⁶ Ibid.

of the GNPC and the IRS in monitoring of operations and in tax administration will be crucial to the success of Ghana's fiscal regime for petroleum.

5.1 EFFICIENCY & NEUTRALITY

To the extent possible, the fiscal package designed by Ghana should be efficient and neutral. This means that the country's fiscal regime for petroleum must neither encourage over investment nor discourage investments that would otherwise have been made.⁴⁷ This can be achieved by limiting government take to the economic rent, taxing when profits are made and refraining from taxing when losses are made.⁴⁸ The income tax and additional oil entitlement features of Ghana's regime take care of this. A withholding tax would also do same.

The difficulty with targeting economic rent however is that IOCs may exaggerate costs and under declare their profits. This is where the ability of GNPC and IRS to effectively monitor operations and tax payments of the IOCs would be crucial to securing revenue for government. Rather than relying solely on self-declared reports of the companies accounts, sophisticated accounts persons with the expertise in the field of petroleum taxation should be engaged.⁴⁹

5.2 PROGRESSIVITY

⁴⁷ See Tordo *Supra* note 41 at 14

⁴⁸ See Nakhle *supra* note 18 at 12

⁴⁹ See Radon *supra* note 28 at 107

This is also linked to neutrality. It refers to the situation where the tax rate increases as the tax base grows. As such, more profitable projects would be taxed more than less profitable ones. This ensures equity in the tax system.⁵⁰ If a tax regime is regressive, the unfortunate result is that as the project gets more profitable, the percentage of “government take” relative to “contractor take” gets smaller. It is in the interest of government therefore to introduce progressivity into its fiscal regime.

Royalty and Income tax are key elements of Ghana’s fiscal regime for petroleum. Royalties, whether based on volume or value are regressive. This affects investment behaviour and may also lead to uneconomic choices being made.⁵¹ A royalty may be made more progressive by applying a sliding scale to it based on levels of production, value of sales, the depth of water or the depth of the well in which the oil is found. Another way is by using the R-factor scheme.⁵² Any of these elements may be introduced into Ghana’s agreements with IOCs to balance the effect of royalties for both government and the companies.

Though personal income tax tends to be progressive, corporate income tax may have a regressive effect because its burden in percentage terms remains the same as the profitability of the project changes.⁵³ In order to reduce the burden on companies when profitability is low and to

⁵⁰ See Andrews-Speed *supra* note 21

⁵¹ See Tordo *supra* note 41 at 39

⁵² Ibid

⁵³ Ibid

ensure that the government gets a share in the upside when excessive profits are made, a stepped tax rate may be applied for petroleum income tax in Ghana based on product prices, volumes of production, sales turn over or profit- to- sales ratio.⁵⁴

5.3 STABILITY AND FLEXIBILITY

Stability of a fiscal regime is an important factor that impacts on the decision of an IOC to invest or not or to maintain or withdraw its investments from a country. Investors like a stable and predictable fiscal regime that guarantees the expected returns on the large-scale investments in the oil and gas industry.⁵⁵

Governments on the other hand would like an opportunity to change existing tax rates and impose new taxes in response to changing circumstances like commodity price increases and to deal for instance with emerging environmental concerns.

Stability may be attained through flexibility in the fiscal regime. A flexible fiscal regime balances out the interests of both government and IOCs by ensuring that government gets an acceptable rate of return commensurate to the profitability of the project.⁵⁶ Once again, in a royalty tax system like Ghana's, this can be achieved through sliding scale royalties and a progressive income tax.⁵⁷

⁵⁴ See Baunsguard *supra* note 38

⁵⁵ Ibid

⁵⁶ See Tordo *supra* note 41 at 14

⁵⁷ Ibid

A legal solution to ensuring stability would be to insert stabilisation clauses into the petroleum contract. “Equilibrium” or “balancing” stabilisation clauses may be used to guarantee government’s right to make changes to the tax system while at the same time providing for some adjustment of the IOCs position to ensure that changes made are not detrimental to its investments.⁵⁸

CONCLUSION

In conclusion, it is the writer’s opinion speaking from a purely fiscal point of view that the current debate in Ghana over what system to adopt should move on beyond focusing on terminologies. Instead the debate should focus on putting together an appropriate combination of tax instruments that would have the effect of encouraging Ghana’s oil and gas resources to be developed in a sustainable way. Emphasis should also be placed on strengthening the administrative and monitoring capacity of the IRS to deal with the new fiscal regime and on allowing the GNPC to play its defined role independently and professionally.

THE AUTHOR IS A LAWYER AND AN OIL & GAS EXPERT, TRAINED AT THE CENTRE FOR ENERGY, PETROLEUM & MINERAL LAW & POLICY, UNIVERSITY OF DUNDEE.. THIS ARTICLE IS PUBLISHED IN THE

⁵⁸ Ibid.

OCTOBER EDITION OF THE DI QUARTERLY (
www.danquahinstitute.org)