

DEEP OFFSHORE AND INLAND BASIN PRODUCTION SHARING CONTRACTS ACT

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DEEP OFFSHORE AND INLAND BASIN PRODUCTION SHARING

CONTRACTS ACT

An Act to, among other things, give effect to certain fiscal incentives given to the oil and gas companies operating in the Deep Offshore and Inland Basin areas under production sharing contracts between the Nigerian National Petroleum Corporation or other companies holding oil prospecting licenses or oil mining leases and various petroleum exploration and production companies.

[1999 No.9.]

[1st January, 1993]

[Commencement.]

1. Production sharing contracts

Notwithstanding anything to the contrary contained in any other enactment or law, the provisions of this Act shall apply to all production sharing contracts as defined in section 17 of this Act.

2. Duration of oil prospecting licences

The duration of an oil prospecting licence relating to production sharing contracts in the Deep Offshore and Inland Basin shall be determined by the Minister and shall be for a minimum period of five years and an aggregate period of ten years.

3. Determination of petroleum profit tax

(1) The petroleum profits tax payable under a production sharing contract shall be determined in accordance with the Petroleum Profits Tax Act: Provided that the petroleum profits tax applicable to the contract area as defined in the production sharing contracts shall be 50 per cent flat rate of chargeable profits for the duration of the production sharing contracts.

[Cap. PI3.]

(2) Nothing contained in this Act shall be construed as having exempted the contractors from the payment of any other taxes, duties or levies imposed by any Federal, State or Local Government, or Area Council Authority.

4. Determination of investment tax credit and investment tax allowance

(1) Where the Nigerian National Petroleum Corporation (in this Act referred to as "the Corporation") or the holder and the contractor have incurred any qualifying capital expenditure wholly, exclusively and necessarily for the purposes of petroleum operations carried out under the terms of a production sharing contract in the Deep Offshore or Inland Basin, there shall be due to the parties in respect of the production sharing contracts executed prior to 1 July 1998, a credit (in this Act referred to as "investment tax credit") at a flat rate of 50 per cent of the qualifying expenditure in accordance with the production sharing contract terms for the accounting period in which that asset was first used for the purposes of such operations.

(2) In respect of parties who executed production sharing contracts after 1 July 1998, there shall be due to such parties an allowance (in this Act referred to as an "investment tax allowance") at a flat rate of 50 per cent of the qualifying expenditure in accordance with the provisions of existing applicable legislation for the accounting period in which that asset was first used for the purposes of such operations.

5. Royalty payable in respect of deep offshore production sharing contracts

(1) The payment of royalty in respect of the Deep Offshore production sharing contracts shall be graduated as follows, that is-

	Area	Rate
(a)	In areas from 201 to 500 metres water depth.....	12 per cent
(b)	From 501 to 800 metres water depth.....	8 per cent
(c)	From 801 to 1000 metres water depth.....	4 per cent
(d)	In areas in excess of 1000 metres depth	0 per cent

(2) The royalty rate payable under the production sharing contracts in the Inland Basin shall be 10 per cent.

6. Computation of petroleum profit tax

Computation and payment of estimated and final petroleum profit tax shall be made in US dollars on the basis of the US dollar returns filed.

7. Allocation of royalty oil

Royalty oil shall be allocated to the Corporation or the holder, as the case may be, in such quantum as shall generate an amount of proceeds equal to actual royalty payable during each month and the concession rental payable annually in accordance with the production sharing contracts terms.

8. Allocation of cost oil

(1) Cost oil shall be allocated to the contractor in such quantum as shall generate an amount of proceeds sufficient for the recovery of operating costs in oil prospecting licences as defined in the production sharing contracts and any oil mining leases derived therefrom.

(2) All operating costs shall be recovered in U.S. dollars through cost oil allocations in accordance with the terms of the production sharing contract.

9. Allocation of tax oil

Tax oil shall be allocated to the Corporation or the holder, as the case may be, in such quantum as shall generate an amount of proceeds equal to the actual petroleum profit tax liability payable during each month.

10. Allocation of profit oil

Profit oil, being the balance of available crude oil after deducting royalty oil, tax oil and cost oil, shall be allocated to each party in accordance with the terms of the production sharing contract.

11. Payment of royalty

(1) The Corporation or the holder, as the case may be, shall pay all royalty, concession rentals and petroleum profit tax on behalf of itself and the contractor out of the allocated royalty oil and tax oil.

(2) Separate tax receipts in the names of the Corporation or the Holder and the contractor for the respective amounts of petroleum profit tax paid on behalf of the Corporation or the holder and contractor shall be issued by the Federal Inland Revenue Service (in this Act referred to as "the Service") in accordance with the terms of the Production Sharing Contract.

12. Chargeable tax on petroleum operations

The chargeable tax on petroleum operations in the contract area under the production sharing contracts shall be split between the Corporation or the holder and the contractor in the same ratio as the split of profit oil as defined in the production sharing contract between them.

13. Use of realisable price in determining royalty and petroleum profit tax in respect of crude oil, etc.

(1) The realisable price as defined in the production sharing contract established by the Corporation or the holder in accordance with the provisions of the production sharing contract, shall be used to determine the amount payable on royalty and petroleum profit tax in respect of crude oil produced and lifted pursuant to the production sharing contract.

(2) The parameters for new crude oil streams produced from the contract area shall also be determined in accordance with the provisions of the production sharing contract.

14. Submission of receipts

The Corporation or the holder, as the case may be, shall make available to the contractor copies of the receipts issued by the Service bearing the names of each party as defined in the production sharing contract in accordance with each party's tax oil allocation for the payment of petroleum profit tax under the provisions of the production sharing contract.

15. Adaptation of laws

(1) The relevant provisions of all existing enactments or laws, including but not limited to the Petroleum Act, and the Petroleum Profit Tax Act, shall be read with such modifications as to bring them into conformity with the provisions of this Act.

[Cap. P10. Cap. P13.]

(2) If the provisions of any other enactment or law, including but not limited to the enactments specified in subsection (1) of this section, are inconsistent with the provisions of this Act, the provisions of this Act shall prevail and the provisions of that other enactment or law shall, to the extent of that inconsistency, be void.

16. Periodic review

(1) The provisions of this Act shall be subject to review to ensure that if the price of crude oil at any time exceeds \$20 per barrel, real terms, the share of the government of the Federation in the additional revenue shall be adjusted under the production sharing contracts to such extent that the production sharing contracts shall be economically beneficial to the government of the Federation.

[1999 No. 26.]

(2) Notwithstanding the provisions of subsection (1) of this section, the provisions of this Act shall be liable to review after a period of fifteen years from the date of commencement and every five years thereafter.

[1999 No. 26.]

17. Interpretation

In this Act, unless the context otherwise requires-

"Corporation" means the Nigerian National Petroleum Corporation;

"contractor" means any petroleum exploration and production company which has entered into a production sharing contract agreement with the Corporation or entered into an agreement or arrangement with any Nigerian holder of an oil prospecting licence or an oil mining lease within the Deep Offshore and Inland Basin;

"Deep Offshore" means any water depth beyond 200 metres;

"holder" means any Nigerian company who holds an oil prospecting license or oil mining lease situated within the Deep Offshore and Inland Basin under the relevant provision of the Petroleum Act;

"Inland Basin" means any of the following Basins, namely, Anambra, Benin, Benue, Chad, Gongola, Sokoto and such other basins as may be determined, from time to time, by the Minister;

"Minister" means the Minister charged with responsibility for matters relating to petroleum and **"Ministry"** shall be construed accordingly;

"parties" includes the Corporation or any Nigerian company as the holder and the Contractor;

"production sharing contracts" means any agreement or arrangements made between the Corporation or the holder and any other petroleum exploration and production company or companies for the purpose of exploration and production of oil in the Deep Offshore and Inland Basins;

"Service" means the Federal Inland Revenue Service.

18. Short Title

This Act may be cited as the Deep Offshore and Inland Basin Production Sharing Contracts Act.

DEEP OFFSHORE AND INLAND BASIN PRODUCTION SHARING

CONTRACTS ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
