

ADDAX PSCs OVER/UNDER-LIFT POSITIONS AS AT APRIL 2015

Based on Agreement entered into by DPR, FIRS and NNPC on 26th May 2015 and the subsequent Federal High Court (FHC) Judgment Order derived from same, Addax PSCs currently operates on Special Fiscal Regime with comparatively low Royalty and PPT.

Prior to the Court Order, the provisions of the Petroleum Act (PA) and the Petroleum Profit Tax Act (PPTA) were the applicable Fiscal Regime authorised by DPR and FIRS on the contracts.

The following scenarios are derivable from the above two (2) regimes:

1) Application Side Letter with Contractor's Cost

i) Antan-Brass	(US\$480,009,443.46) -	Overlift Against NNPC
ii) Okwori	(US\$377,742,021.48) -	Overlift Against NNPC
Total Value	<u>(US\$857,751,464.94)</u> -	Overlift Against NNPC

This is the position Addax holds on the contracts.

2) Application of PA & PPTA with Addax Cost

i) Antan-Brass	US\$1,191,101,084.03 -	NNPC Underlift
ii) Okwori	US\$486,147,254.89 -	NNPC Underlift
Total Value	<u>US\$1,677,248,338.92</u> -	NNPC Underlift

Should the FHC decide the litigation in favour of NNPC, Addax would prefer its own costs in this scenario even though it hugely benefits NNPC.

3) Application of Side Letter with NAPIMS Costs

i) Antan-Brass	US\$248,419,722.38 -	NNPC Underlift
ii) Okwori	US\$335,695,452.37 -	NNPC Underlift
Total Value	<u>US\$584,115,174.75</u> -	NNPC Underlift

This is the position NNPC currently applies on the contracts in compliance with the Court Order and pending NAPIMS final reconciliation of the costs of operation.

4) Application of PA & PPTA with NAPIMS Costs

i) Antan-Brass	US\$2,110,450,326.00 -	NNPC Underlift
ii) Okwori	US\$1,381,138,403.64 -	NNPC Underlift
Total Value	<u>US\$3,491,588,729.64</u> -	NNPC Underlift

This is meant to be DPR, FIRS and NNPC's position based on the Statutory provisions of the PA, PPTA and the applicable fiscal regime on other PSCs in the same category with Addax

IN THE FEDERAL HIGH COURT
HOLDEN AT ABUJA, NIGERIA

SUIT NO. FHC/ABJ/CS/1099/2014

BETWEEN:

1. ADDAX PETROLEUM DEVELOPMENT
(NIGERIA) LIMITED

2. ADDAX PETROLEUM EXPLORATION
(INGERIA) LIMITED

PLAINTIFF/APPLICANTS

Abif 4th Defendant

AND

1. NIGERIA NATIONAL PETROLEUM CORPORATION

2. MINISTRY OF PETROLEUM RESOURCES
DEPARTMENT OF PETROLEUM RESOURCES

3. FEDERAL INLAND REVENUE SERVICE

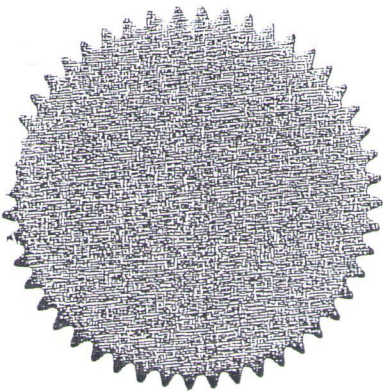
----- DEFENDANT/RESPONDENTS

JUDGMENT ORDER

UPON THIS ORIGINATING SUMMONS dated and
filed on the 23rd day of December, 2014 coming
before the court;

UPON READING the terms of settlement dated
25th day of May, 2015 signed by the parties and
their counsel.

AND AFTER, Prince T. Kayode (SAN) with Dr. J.
Olatoke (SAN), A.O. Omotosho Esq; Olatunji
Salawu Esq; Miss. B.O. Omodora, B.O Udo (Miss.)



I.N.auta

I.N. AUTA (OFR)
CHIEF JUDGE

FEDERAL HIGH COURT
ABUJA
CASHIER

Signature *[Signature]*
Date *2014/12/23*

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FEDERAL HIGH COURT
ABUJA

Signature *[Signature]*
Date *27/5/2015*

Ben Mulsamu
Registrar

of counsel for the Plaintiff applying that the terms of settlement filed be admitted and entered as the judgment of the court.

AND C.P. Nzeribe Esq; M.W. Afolayan Esq; E.C. Mba (Miss.) of counsel for the 1st Defendant also applying that the agreement be entered as the judgment of the court.

AND O. Aliu Mrs. with C. Egbunonu (Miss) of counsel for the 2nd Defendant applying for a short adjournment,

AND Idrissa Kogo Esq; with Angola Gabadi Mrs., Bright Egbinosa Esq; and Ayuba Kwari Esq; of counsel for the 3rd Defendant, also supporting that the terms of settlement be adopted as the judgment of this court.

IT IS HEREBY ORDERED AS FOLLOWS:-

1. That the term of settlement filed on the 25th day of May, 2015 is accordingly entered as the judgment of this court in the interest of justice as follows:

FGN/ADDAX SETTLEMENT AGREEMENT

this settlement agreement is made this 25th day of May, 2015 between the Federal Government which expression shall where the context for the

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FEDERAL HIGH COURT**

ABUJA

Signature. *[Signature]*

Date. *27/5/15*

purposes of this Agreement so admit, include its agencies, departments and divisions of the 1st part.

AND

ADDAX PETROLEUM DEVELOPMENT (NIGERIA) LIMITED, a limited liability company incorporated under the laws of the Federal Republic of Nigeria, having its registered office at No. 32 Ozumba Mbadiwe Avenue, Victoria Island, Lagos, Nigeria (hereinafter referred to as "Addax" which expression shall, where the context so admits, include its successors and assigns) of the 2nd Part,

AND

ADDAX PETROLEUM DEVELOPMENT (NIGERIA) LIMITED, a limited liability company incorporated under the laws of the Federal Republic of Nigeria, having its registered office at No. 32 Ozumba Mbadiwe Avenue, Victoria Island, Lagos, Nigeria (hereinafter referred to as "Addax" which expression shall, where the context so admits, include its successors and assigns) of the 3rd Part.

The FGN and Addax may hereinafter also be referred to individually as "party" or collectively as "Parties".

WHEREAS:

A. Nigeria National Petroleum Corporation (NNPC), the Federal Republic of Nigeria's National Oil Corporation and Addax entered into Production Sharing Contract ("PSC") dated 6th May, 1998, covering Oil Prospecting Licence (OPL) 98/118 (now Oil Mining Leases 123,124,136 & 137).

B. By a letter dated 21st November, 2001 (Side Letter) addressed to the Group Managing Director (GMD) of NNPC and the Chairman of

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Signature: *Ben Molo Kwan*
Date: *27/11/15*
Registrar

the Federal Inland Revenue Service (FIRS) respectively, the office of the Presidential Adviser of Petroleum of the FGN, conveyed the approval by the FGN of a new fiscal regime for onshore and shallow offshore PSCs which was subsequently forwarded to Addax by NNPC vide letter dated 11th December 2001, for implementation in the computation of Addax applicable taxes and royalty.

C. By a letter dated 22nd May, 2002, addressed to the GMD of NNPC, the office of the Presidential Adviser on Petroleum of FGN, confirmed 1st January, 2000 as the effective date for the implementation of the aforementioned fiscal regime.

D. By a letter dated 17th October, 2002 from FIRS to Addax, FIRS sought full details of the new fiscal regime from NNPC in order to implement same and NNPC in response confirmed the details of the new fiscal regime and its agreement thereto by letter dated 19th February, 2003 to FIRS.

E. In reliance upon the said fiscal regime, Addax has committed significant investment in excess of \$3 billion in the development of the contact areas.

F. In July, 2011 FIRS and the Department of Petroleum Resources (DPR) objected to this fiscal regime based on the side letter; which objection in Addax view is contrary to the rule of law, doctrine of legitimate expectation and a breach of the side letter which all the parties had relied upon and implemented for over 10 years.

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A B U J A

Signature.....

Date.....

27/5/2015
Ben M. Oluwalanu, Registrar

G. The parties agree that NNPC has over an lift position which has to be remedied in favour of ADDAX.

WHEREAS the Parties wish to settle all issues and differences that have arisen between the Agencies of the FGN (FIRS & NNPC & DPR) and Addax particularly as it relates to the fiscal regime (the tax and royalty obligations payable with respect) to fund OMLs 123,124,136 & 137 in the manner hereinafter stated.

AND WHEREAS the FEDERAL GOVERNMENT of NIGERIA for and on behalf of the 1st,2nd,3rd and 4th Defendants and for itself has agreed with Addax to a full and final settlement of all the issues arising and related to this case.

PARTIES HEREBY AGREE AS FOLLOWS:-

1. In consideration of Addax reliance on the Side Letter and its investments made based on same as well as on the PSC, the FGN shall continue to give effect to the Side Letter.
2. The FGN shall procure its relevant agencies and departments including the Federal Ministry of Petroleum Resources and departments there under, including NNPC & DPR the Federal Ministry of Finance and departments there under, FIRS inclusive to continue to give effect to the provisions of the Side Letter.
3. Parties shall cooperate to implement the combined provisions of Clause 9 of the PSC, Annexes B (Accounting Procedure) and C (Allocation Procedure) and accordingly shall set up a reconciliation committee to examine the current state of cargo over lift based on the effect of the Side Letter which committee shall conclude its findings within 14 days

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Signature..... *[Signature]*

Date..... *[Date]*

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[Handwritten text] 27/5/2015

from the date the Federal High Court adopts this Terms of Settlement as its judgment.

4. Thereafter Parties shall use their best endeavours to achieve restitution, in the most timely manner, through consolidated lifting entitlements, or via other mutually acceptable mechanism, provided such restitution shall be concluded within two (2) years from the date the Federal High Court adopts this Terms of Settlement as its judgment.
5. Each party shall use its best endeavours to ensure that that the terms of this Agreement are promptly complied with.
6. The parties expressly acknowledge and agree that this Agreement is being executed and delivered as part of a legally binding commercial transaction in full and final settlement of all disputes concerning or related to the applicable fiscal regime in respect of OML123,124,136 & 137.
7. This Agreement shall be governed by and construed in all respect in accordance with the laws of the Federal Republic of Nigeria. Any differences, disputes or claims arising out of or related to the implementation of this Agreement shall be exclusively and finally settled by arbitration pursuant to the Arbitration and Conciliation Act CAP A18 Laws of the Federal Republic of Nigeria 2004.
8. If any provision hereof is or becomes unenforceable for any reason or in any respect, the enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

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Signature

Date

27/5/2015

Reuben

9. The Parties agree and acknowledge that time is of the essence with regard to this Settlement Agreement.

10. This Settlement Agreement supersedes any prior agreements, understanding or negotiations.

ISSUED AT ABUJA under the seal of court and by the hand of the presiding Chief Judge this 26th day of May, 2015.


JOHN OTU
REGISTRAR

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FEDERAL HIGH COURT
ABUJA

Signature: 
Date: _____

27/5/2015

Ben Moloakuwa

Registrar



HAGF/SH/2015/VOL1/19

2nd April, 2015

His Excellency,
Dr. Goodluck Ebele Jonathan, GCFR
President, Federal Republic of Nigeria,
Presidential Villa,
Abuja.

Your Excellency,

RE: AMICABLE SETTLEMENT OF DISPUTE BETWEEN ADDAX PETROLEUM
AND CERTAIN AGENCIES OF THE FEDERAL GOVERNMENT

May I respectfully draw Your Excellency's attention to the attached letter dated 2nd April, 2015, from the Coordinator, Legal Services & Secretary to the Nigerian National Petroleum Corporation (NNPC) in respect of the above subject matter.

2. The Coordinator, Legal Services & Secretary to the NNPC has written to inform me that NNPC is satisfied with the proposed terms (Terms of Settlement) submitted by Addax Petroleum Development (Nigeria) Limited and Addax Petroleum Exploration (Nigeria) Limited (Addax), to the NNPC for the out of court settlement of Suit No. FHC/ABJ/CS/1099/2014. He is therefore seeking approval of the aforementioned Terms of Settlement. (A copy of the Terms of Settlement is attached for your kind attention, sir).

3. In view of the fact that the proposed Terms of Settlement are acceptable to the NNPC, Your Excellency may wish to consider and approve the Terms of Settlement and direct the Honourable Minister of Petroleum Resources, the NNPC, the Department of Petroleum Resources and the Federal Inland Revenue Services to accordingly

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OFFICE OF THE ATTORNEY-GENERAL OF THE FEDERATION AND MINISTER OF JUSTICE

execute the Terms of Settlement on behalf of the Federal Government of Nigeria.

4. Please accept, Your Excellency, the assurances of my highest regards and esteem.

M. Bello Adoike
MR. MOHAMMED BELLO ADOIKE, SAN, CFR
Honourable Attorney General of the Federation
and Minister of Justice

CPJ
CME/HM
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