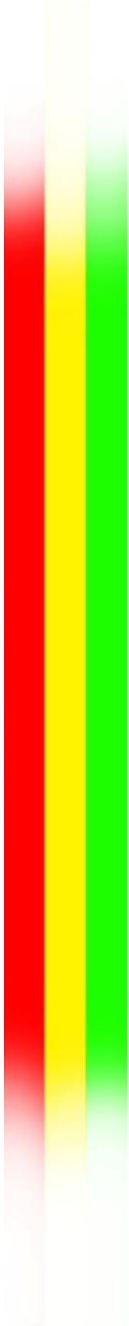




**PUBLIC INTEREST AND ACCOUNTABILITY COMMITTEE
ESTABLISHED UNDER THE PETROLEUM REVENUE MANAGEMENT ACT 2011
(ACT 815)**

**REPORT ON PETROLEUM REVENUE MANAGEMENT FOR 2011
ANNUAL REPORT**



ABBREVIATIONS

ABFA	Annual Budget Funding Amount
AG	The Auditor-General Department
BOG	Bank of Ghana
BR	Benchmark Revenue
CAPEX	Capital Expenditure
COLA	Crude Oil Lifting Agreement
GNPC	Ghana National Petroleum Company
GOG	Government of Ghana
GPF	Ghana Petroleum Fund
GRA	Ghana Revenue Authority
IAC	Investment Advisory Committee
IOC	International Oil Company
MOFEP	Ministry of Finance and Economic Planning
PIAC	Public Interest and Accountability Committee
WCTP	West Cape Three Points

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FOREWORD AND ACKNOWLEDGEMENTS

The Public Interest and Accountability Committee (PIAC) was inaugurated on the 15th September 2011 and began meeting the following month. The Committee has held several meetings since its inception including sessions with key players in the oil and gas industry. We have received presentations from Tullow Oil PLC, as operator of the Jubilee oil fields, as well as from the Ministries of Energy and of Finance and Economic Planning. The Committee also met with officers from the Ghana Revenue Authority and the Ghana National Petroleum Corporation (GNPC).

The general impression after these meetings has been that these key players were making every effort to play their roles as required by law, as well as to meet the expectations of society. However, we note that there were still gaps that need to be addressed. The first year of operations has been a good learning experience for all concerned and it is expected that a lot of progress should be made in the months and years ahead to build on this.

By publishing this report, the Committee is fulfilling its mandate as set out in section 56 of Act 815. Furthermore, the Committee will hold its first public meeting in the month of June in the Western Region of Ghana.

The Committee has had to operate under very difficult conditions since the State has not provided any resources to it since its inception in September 2011. The Committee has relied thus far on an interim secretariat and funds provided by international organisations. It is working to secure financing for a working secretariat and for the implementation of its programmes and activities in 2012 and beyond.

The Committee is extremely grateful to the following organisations for their immense contributions to the Committee during this difficult formative period. One could boldly say that without the efforts of the Revenue Watch Institute Africa Regional Office the Committee would have been a still born Committee. Thanks to their initiative and support to the Committee, we were able to hold our inaugural meeting, elect our leadership, chart a work programme and implement our few activities. They kindly offered their offices as an interim secretariat, whilst formalities for establishing a permanent secretariat dragged on. Special mention is also made of GIZ (Gesellschaft für Internationale Zusammenarbeit) who provided financial support to the Committee to implement our programme and activities, and without which the preparation of this very report would not have been possible. The Institute of Economic Affairs (IEA) also deserves our commendation for making their premises available several times for Committee meetings and functions.

We also thank Dr. Kwamina Panford of UCC, Mr. Amin Adam of IBIS Ghana and Mr. John Peter Amewu of GIMPA for assisting the Committee to assemble material for this report.

Finally, we wish to thank all other organisations and individuals who have contributed in one way or another towards the Committee finding its feet at this formative time.

THE CHAIRMAN

Accra, 10th May 2012

EXECUTIVE SUMMARY

The Public Interest and Accountability Committee (PIAC) is established under Section 51 of the Petroleum Revenue Management Act (Act 815) with the following objectives:

- a. Monitoring and evaluating compliance with the Act by the Government and other relevant institutions in the management and use of petroleum revenues.
- b. Providing a platform for public debate on spending prospects of petroleum revenues in line with development priorities.
- c. Providing an independent assessment on the management and use of revenues.

The Committee is mandated by the law to publish a semi-annual and an annual report by the 15th September and 15th March each year. This report issued in compliance with Act 815 contains the findings and recommendations of the Committee based on its assessment of the management of petroleum revenues in 2011.

Key Findings

- i. The mid-year enactment of Act 815 led to the Benchmark Revenue being determined in July 2011 during the presentation of the supplementary budget for 2011, thereby revising the first projection of petroleum revenue estimated for that year in November 2010 prior to the passage of the law. The late determination of the Benchmark Revenue was therefore done as a special case considering the operational challenge of Act 815 in its first year of implementation.
- ii. The forecasting methodology for petroleum revenue as specified in the Act 815 was not strictly complied with. This was reportedly due to the lack of historical price data on Jubilee crude oil, the failure of MOFEP to consider the advice of the GRA on the tax-paying position of the oil companies and the lack of certification in line with established international practice. As a result, there were wide disparities in oil receipts for 2011 between the forecast and the outturn; and the Committee notes this precedent could be exploited to over-estimate the Benchmark Revenue to justify higher allocations to the Annual Budget Funding Amount.
- iii. Ghana's lifting of crude oil was consistent with the Petroleum Agreements reflecting a royalty of 5% of gross production and a carried and participating interest of 13.75% of net production for the Jubilee Field. Lifting of crude oil in 2011 however spilled-over into 2012 in accumulated stocks of 649,138 barrels of oil, representing 2% of total production due to Ghana for 2011. This led to revenue overspill of US\$74,463,275.
- iv. Not all payments expected to go into the Ghana Petroleum Holding Fund were reported on. Act 815 covers all oil receipts and Section 6 of Act 815 lists surface rentals explicitly. The surface rentals were paid into Government of Ghana Non-Tax Revenue Account in 2011 and not accounted for in the Petroleum Holding Fund, nor were payments from the Saltpond field included.
- v. The selection of the priority sectors for spending of the ABFA was guided by the Ghana Shared Growth and Development Agenda, a medium term development

framework which puts greater emphasis on road infrastructure and agricultural modernization. The Minister therefore complied with sections 18(2) and 21(2) d of Act 815. However, this was not aligned to a long-term national development plan, as required under Act 815 because of the absence of such a long-term plan.

- vi. For the 2011 period under review, GNPC submitted its programme of activities to Parliament through the Ministry for Energy in 2010 as part of the 2011 national budget process, as was the practice before the enactment of Act 815. However, after the passage of Act 815 GNPC's presentation of its programme of activities was done separately in accordance with the law during the presentation of the 2012 national budget. GNPC has not yet published an audited report on the use of the funds (GHS 315,390,698) received to cover its activities in 2011. They assured the Committee that this will be done soon and will be provided to relevant government institutions.
- vii. The Minister of Finance and Economic Planning is yet to sign the Operational Management Agreement with the Bank of Ghana for the Ghana Petroleum Funds. Therefore the role played by the Bank in the investment of the Ghana Petroleum Funds is done outside of such an agreement.
- viii. There was a delay in the establishment of agencies created under Act 815, this coupled with a lack of resources has led to a deficiency in their ability to fulfil their mandates prescribed in the Act. In addition, existing institutions face capacity challenges in meeting their extended responsibilities linked to the management of petroleum revenues. In particular, the PIAC is yet to have a permanent secretariat nor has it been provided with state resources to carry out its activities, such as public meetings.
- ix. The Committee has found inconsistencies within the law which lead to implementation challenges, and wishes to highlight the different provisions for the composition of the Petroleum Holding Fund. Under section 6, the Petroleum Holding Fund is described as gross receipts from all components of petroleum revenue listed in that section. This is further confirmed by the methodology to be used in establishing the Benchmark Revenue in Section 17 (First Schedule). Section 7 however truncates the amount by setting aside the amounts designated to be paid to the national oil company thus creating some amount of confusion over the determination of the Benchmark Revenue.
- x. Upon publication of the 2012 budget statement, the PIAC drew the attention of the Minister of Finance and Economic Planning to the inclusion of unanticipated corporate taxes in the Benchmark Revenue and the implication this has on overestimating the Benchmark Revenue and ABFA. This we believe could limit transfers to the Ghana Petroleum Funds and lead to premature dependency on the Stabilisation fund when the projected amounts are not realised. The Ministry's response to the request to revise the projections was that if adequate justification is available, this "should be done with the approval of Parliament".

Main Recommendations

- i. MOFEP must use the methodology for determining the Benchmark Revenue set out in the law, involving all relevant institutions, and ensure the assumptions are certified by a reputable independent expert appointed in accordance with the Public Procurement Act, 2003 (Act 663). This will avoid the likelihood of distortions in establishing the Benchmark Revenue and deriving the Annual Budget Funding Amount.
- ii. Revenue overspill from 2011 must be reported on in 2012. Appropriate regulations should be enacted by parliament to deal with such occurrences likely to continue in future years due to the COLA.
- iii. MOFEP should take steps to account for the 2011 unaccounted proceeds in the Petroleum Holding Fund in a special report to Parliament and ensure that all receipts are reported on in future.
- iv. Government must expedite the process for the development of a nationally owned long-term development plan in line with the provisions of Act 815 to guide the productive and efficient utilization of petroleum revenues for national development.
- v. In the interest of public accountability and transparency, GNPC must publish an interim report on the utilisation of the funds it received as part of the appropriation of petroleum revenues in 2011 pending the release of its annual report and audited financial statements.
- vi. The Minister of Finance and Economic Planning must sign the Operational Management Agreement with the Bank of Ghana as soon as possible.
- vii. Government must provide the necessary resources for all institutions with responsibilities under Act 815 and ensure that they have the required capacity to carry out their responsibilities effectively.
- viii. The Minister of Finance must initiate action to amend those portions of the law and/or draft regulations to provide increased clarity in determining the composition of the Petroleum Holding Fund and, by extension, the Benchmark Revenue.
- ix. The Committee recommends that Parliament investigate the matter of the potential overestimation of the Benchmark Revenue for 2012 as raised by the Committee and advise the Ministry of Finance and Economic Planning accordingly.
- x. Parliament must demand explanations from the institutions charged with responsibilities under Act 815 the reasons for their non-compliance with provisions of the Act. It should also develop a sanctions regime for violations of reporting requirements in any future amendment to the Act.
- xi. The Auditor General must begin the process of auditing of the Ghana Petroleum Funds as prescribed by Act 815.

Methodology

In preparing this first report, the Committee solicited the support consultants who worked together with the Committee's own Technical Sub-Committee. The preparation of the report was done over the period February – May 2012.

In writing this report, the PIAC sought to use, whenever feasible, primary data and information from major institutions whose roles, responsibilities and performance were subject to the operation of Act 815. The data was gathered directly from the agencies, through a combination of questionnaires (such as in Appendix I) and face to face meetings. This was complemented by some additional desk research.

However, since this was the first report and there was no precedent to follow, information was not always readily available. In some cases this was due to the fact that the institutions themselves are going through new procedures or have only recently been set up, as is the case of the Investment Advisory Committee. The Committee therefore had to update the draft of the report on numerous occasions as additional information was gradually released from the institutions.

The Committee also found that the existing timelines which many institutions work by, to complete their accounting and recording for the previous year, did not allow for information to be available by the deadline for the publication of this Annual Report as given by Act 815 of 15th March. For example the contact person at the GRA was unable to provide some vital information on the cost data due to the fact that the data provided by the operator was still being audited. Furthermore, at GNPC we found that the annual accounts were yet to be audited and published.

The Committee therefore requires that the relevant institutions include the Public Interest and Accountability Committee on their distribution lists for reports and requests that information for future reports be provided in a timely manner and as a priority. In addition to the provision of timely information throughout the year, the Committee hopes this will enable it to better meet its reporting obligations in future.

BACKGROUND

1.1. Introduction

Oil was discovered in commercial quantities off the coast of Ghana in June 2007. The country became one of Africa's newest oil producers with the pouring of first oil from the Jubilee field in December 2010. The Jubilee field is reported to have 800 million barrels of proven reserves and an upside potential of about 3 billion barrels of oil. The government is expected to receive several billion dollars in new revenues over the next two decades and how these new revenues are managed will be vital to Ghana's continuing development. Ghana has a chance to show that oil revenues can be managed and used in a transparent and accountable manner, and is seeking to avoid the "resource curse" as experienced in other oil-rich countries.

Ghanaians are hopeful that they will be able to avoid some of the problems related to the sudden onset of oil wealth, such as increased corruption, increased debt, "Dutch Disease" effects, and competition and conflict over resource revenues. Local and international observers have raised a word of caution that Ghana's enviable track record of economic, social and democratic development over the last 20 years may be affected by the challenges posed by the oil find.¹

The primary essence of the creation of the Public Interest and Accountability Committee (PIAC) established under the Petroleum Revenue Management Act, 2011, Act 815 (hereafter referred to as Act 815) was to ensure successful utilisation of proceeds from oil and gas exploitation to secure the greatest social and economic benefit for the people of Ghana. This requires Government Accountability to an Informed Public.

Ideally, all policies and laws concerning the oil and gas industry should have been formulated before commencement of oil production, especially in regards to the management of petroleum revenues. Oil production started in December 2010 prior to the passage of Act 815.

1.2 Ghana's Oil fields

It is also important to state that before the Jubilee discovery, Ghana had been producing oil, albeit on a limited scale, since the 1980s from the Saltpond Fields. The GNPC currently has a joint venture operation with Lushann Eternit Energy Limited, which was entered into on 11th November, 2004. The ownership interest of the joint venture partners who are operating under the Saltpond Offshore Producing Company Limited (SOPCL) are as follows: Lushann - 55% and GNPC - 45%.

The level of production from the Saltpond fields is quite low. Daily average production stands at 700 barrels of crude oil. In view of the fact that there are no records to show that the revenues from oil production from the Saltpond fields have been paid into the Ghana

¹ World Bank (2009) *Ghana Economy-wide Impact of Oil Discovery* Report No. 47321 – GH, PREM 4, Africa Region.

Petroleum Holding Fund, this report focuses on crude oil production from the Jubilee field in 2011.

The Jubilee Field is situated in Deepwater Tano (DT) and West Cape Three Points (WCTP) blocks; approximately 60km offshore Ghana and 130km west southwest of the port city Takoradi which provides shorebase infrastructure. Water depth within the Jubilee Field Unit area ranges from 1,000 to 1,700m.

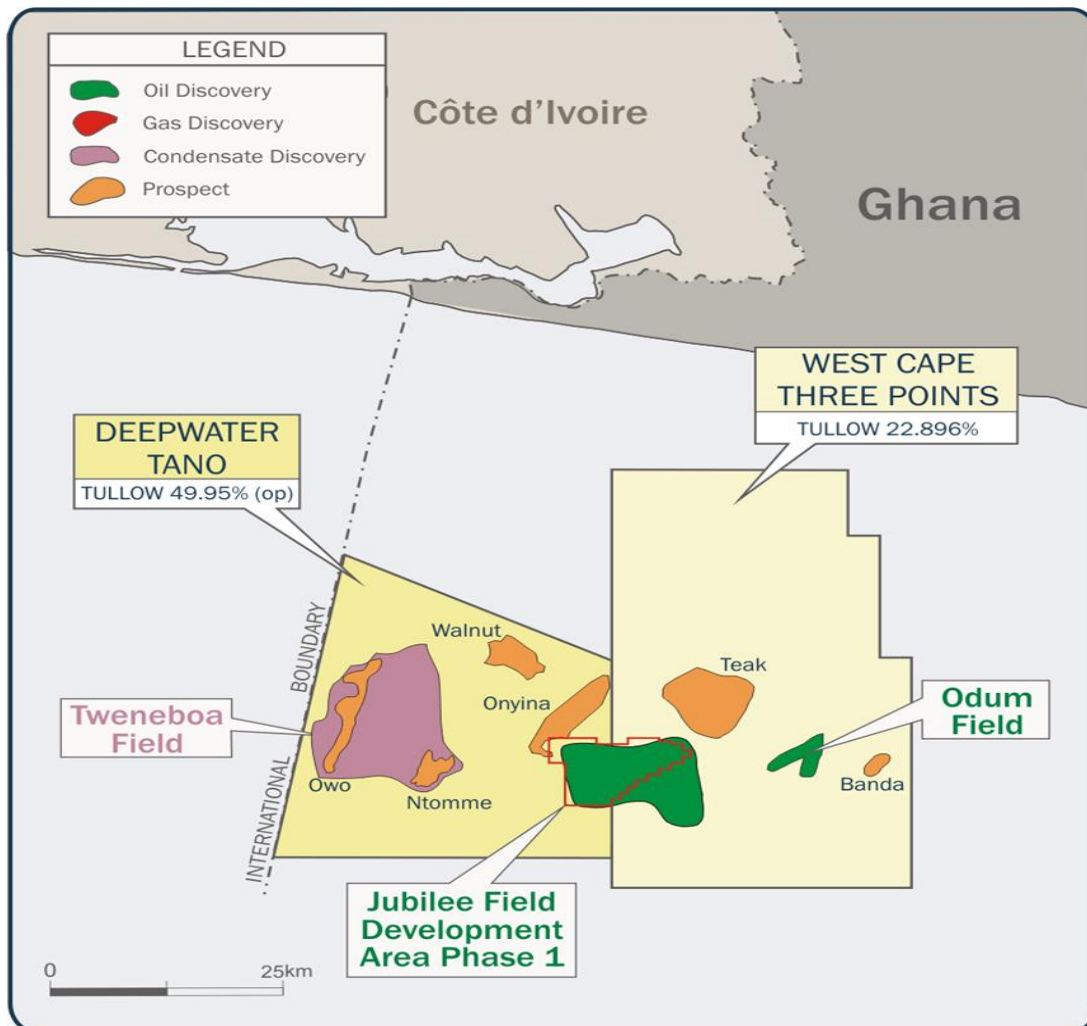


Figure 1: Fields in the West Cape Three Points and Deepwater Tano blocks

The start of oil production was preceded by three and a half years of intense work by the consortium partners with a capital investment of over \$4.1 billion.² The original commercial partners on the Jubilee field were Tullow Oil plc (34.70%), Anadarko Petroleum Corp (23.49%), Kosmos Energy (23.49%), the Ghana National Petroleum Corporation (13.75%), Sabre Oil and Gas (2.81%) and the E.O. Group (1.75%).³ However, Tullow Oil Plc in May 2011 acquired the shares of EO Group thereby increasing its stake to 36.5%.⁴

² GNPC presentation to the Public Interest and Accountability Committee, 8th December, 2011.

³ CS Platform on Oil and Gas (2011), Ghana's Oil Boom, a Readiness Report Card.

⁴ <http://www.bloomberg.com/news/2011-05-26/tullow-buys-eo-group-s-ghana-assets-to-increase-jubilee-stake.html>

The Jubilee Field started by producing an average of 24,395 barrels per day for the three final days of November 2010. The production levels increased up to an average level of 37,932 barrels per day in December, 2010. According to Tullow Oil projections Ghana was supposed to be producing approximately 120,000 barrels of oil per day by June 2011.⁵ Unfortunately, this production level was not achieved by the end of 2011 due to technical production challenges faced with the wells.

Apart from the Jubilee fields, there are other active explorations going on in the country's off-shore basins. Oil companies actively operating in these basins include;

- KOSMOS ENERGY GHANA,
- ENI GHANA,
- TULLOW GHANA LIMITED,
- HESS GHANA EXPLORATION LIMITED,
- ORANTO PETROLEUM INTERNATIONAL LIMITED,
- TAP OIL GHANA LIMITED,
- VANCO GHANA LIMITED and
- AFREN ENERGY GHANA LIMITED,

as can be seen in Figure 2.

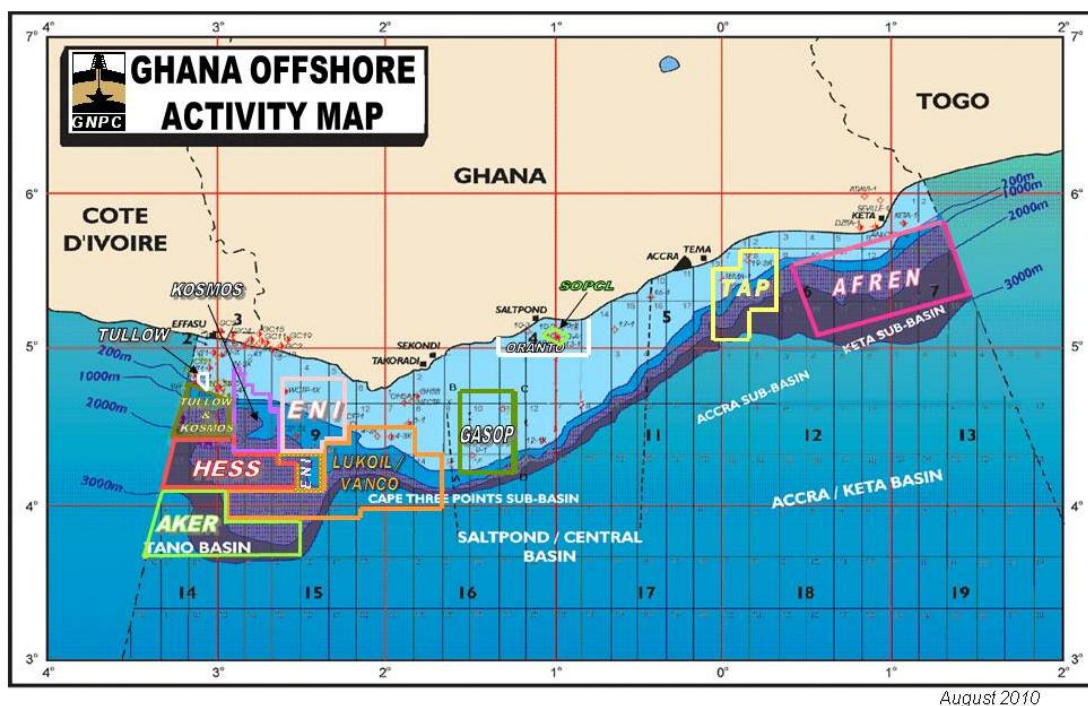


Figure 2: Ghana Offshore Activity Map

⁵ Tullow Oil Ghana, www.tulloil.org

The Public Interest and Accountability Committee

Further to the passage of Act 815, the Public Interest and Accountability Committee was inaugurated by the Minister of Finance and Economic Planning, Dr Kwabena Duffuor, on the 15th September 2011.

Objectives of the Committee

1. Monitoring and evaluating compliance with the Act by the Government and other relevant institutions in the management and use of petroleum revenues,
2. Providing a platform for public debate on spending prospects of petroleum revenues in line with development priorities;
3. Providing an independent assessment on the management and use of revenues.

Functions of the Committee

To achieve its objectives the Committee is required to consult widely on best practice related to the management and use of petroleum revenues.

Reporting requirements of the Committee

1. Publish a semi-annual report and an annual report by the 15th September and 15th March of each year. This will be posted on the Committee website, published in daily newspapers, delivered to Parliament and to the President.
2. Hold public meetings at least twice each year to report on its mandate to the general public.

Membership of the Committee

The Committee consists of members each nominated by the following:

Organisation (s)	Currently represented by:
(i) Trade Union Congress,	Kwabena Nyarko-Otoo
(ii) National House of Chiefs,	Osabarimba Kwesi Atta II Oguuahen
(iii) Association of Queen Mothers,	Naa Ayiekailey Nanobeng
(iv) Association of Ghana Industries and Chamber of Commerce,	Douglas Boateng
(v) Ghana Journalists Association,	Yaw Owusu Addo
(vi) Ghana Bar Association,	Kwame Adjei-Djan
(vii) Institute of Chartered Accountants,	Major Daniel Sowa Ablorh-Quarcoo
(viii) Ghana Extractive Industries Transparency Initiative;	Franklin Ashiadey
(ix) Christian groups namely the National Catholic Secretariat, the Christian Council and the Ghana Pentecostal Council on a rotational basis,	Angela Peasah
(x) the Federation of Muslim Councils and Ahmadiyya Mission on a rotational basis, and	Hajj Muhammad Kpakpo Addo
(xi) Ghana Academy of Arts and Sciences	Unoccupied*
(xii) Representative of think tanks	Dr John Kwakye
(xiii) Representative of civil society and community based organizations	Ishmael Edjekumhene

The Committee has seen some changes to its membership since the inauguration in September 2011. Professor Ivan Addae-Mensah stepped down due to his nomination as Chairman of the Petroleum Commission and Dr Michael Ofori-Mensah was first nominated for think tanks but stepped down as he would be out of the country.

REVENUE PROJECTIONS FOR 2011

2.1 Introduction

During the period under review the Public Interest and Accountability Committee considered the projections made for government revenues from oil and gas in the fiscal year 2011.

Reliable annual projection of petroleum revenue is a major requirement of Act 815 since it is used to determine how much of the petroleum revenue may be spent (or saved) each year. Cognisant of the inherent challenges in the forecasting of oil revenues, especially the challenge posed by the volatility of the price of crude oil, a key determinant of revenue, Act 815 has clearly outlined the methodology to be used by the government to estimate the expected revenues from the petroleum sector.

Sections 6, 7 and 17 (First schedule) of Act 815 clarify the types of revenues streams to be considered and the manner in which they should be calculated. Based on the expected inflows to the Petroleum Holding Fund, the government is required to define the Benchmark Revenue which determines the proportion of petroleum revenue it will refer to for budgeting and allocation purposes during the coming year.

"Petroleum Holding Fund" is a transitory Fund to which all petroleum revenues are deposited and from which transfers are made to the Budget and Petroleum Funds.

Petroleum Holding Fund

According to Section 6 of Act 815 the Petroleum Holding Fund is expected to receive the following oil and gas related revenues:

"Benchmark Revenue" means the estimated revenue from petroleum operations expected by the Government for the corresponding financial year.

In Section (5) of Schedule 1, Benchmark Revenue is defined as "the sum of the expected revenue from crude oil, expected gas royalties and the expected dividends from the national oil company".

- a. Royalties, Additional Oil Entitlement, surface rentals, other receipts from petroleum operations and the sale or exports of petroleum
- b. Any amount from direct and indirect participation of Government in petroleum operations
- c. Corporate income taxes in cash from upstream and midstream petroleum companies
- d. Amount payable by the national oil company as corporate income tax, royalty, dividends, or any amount due in accordance with the laws of Ghana
- e. Amount from capital gains tax

Calculating the Benchmark Revenue

Expected revenues from crude oil are the product of unit prices of crude oil and quantity of crude oil accruing to the state. The Ministry of Finance and Economic Planning is expected

to use the following methodology set out in the First Schedule of Act 815 in forecasting revenues from crude oil:

- “The Annual Benchmark Revenue shall be calculated on the basis of actual and expected average unit price of crude oil and natural gas derived from a seven-year moving average, the seven years being the four years immediately prior to the current financial year, the current financial year itself and two years immediately following the current financial year”.
- “The expected quantity of crude oil shall be calculated on the basis of expected average government take in gross oil over a three year horizon. The three years being the immediately preceding, current financial year, and the one year ahead projection following the current financial year”.

The determination of Benchmark Revenue for 2011

The Committee observed that two projections were made for the 2011 fiscal year. The first was in October 2010 as specified in the 2011 Budget Statement. This was based on crude oil price of \$70 per barrel of oil and an average production volume of 79,945 barrels per day.⁶ This was computed prior to the passage of Act 815 in April 2011.

The second projection, the Benchmark Revenue, was made in July 2011 in the Supplementary Budget. The Ministry of Finance and Economic Planning explained that at the time the first projection was determined, Act 815 had not been passed.⁷ This apparent legal challenge was understandable under the circumstances.

This Benchmark Revenue came with a different set of assumptions; crude oil price of \$100 per barrel and an average production volume of 84,737 barrels of oil per day. For the period in question, our investigations show that the Government used conservative estimates based on international crude oil prices rather than follow the formula prescribed in the Act. Although the formula used was not shared with the PIAC, we presume the non-utilisation of the prescribed formula in Act 815 could be due to lack of historical data on Jubilee crude oil prices.

With the upward revision of the projection, the 2011 Supplementary Budget of the Government of Ghana estimated that GH¢1.25 billion would be received in petroleum revenues, covering receipts from royalties, carried and participating interests and corporate taxes, as set out in table I.

Table I: Forecast of Oil Receipts for 2011

Revenue Stream	Forecast (GH¢ mil)
Royalties	201.25
Carried and Participating Interest	445.77
Corporate Taxes	603.76
Total Oil Revenue	1,250.0

Source: Government of Ghana-2011 Supplementary Budget

⁶ Government of Ghana – 2011 Budget Statement

⁷ The Petroleum Revenue Management Act of 2011 (Act 815) was signed into law on April 11, 2011.

As can be seen from Table 2, the Benchmark Revenue approved by Parliament was GHS 923,446,572 for 2011. This was arrived at by calculating the expected receipts into Petroleum Holding Fund less equity financing costs and cash or oil in barrels to be ceded to the national oil company as provided for in Section 7 of Act 815.

Table 2: Forecast of payments into the Petroleum Holding Fund for 2011

Transfers	Target (GH¢)
Total Oil Revenues	1,250,000,000
o/w Transfer to GNPC	327,337,152
o/w Petroleum Holding Fund	923,446,572

Source: Fiscal Data, 2011, Ministry of Finance and Economic Planning

The PIAC is concerned about the non-utilisation of the methodology in the law and the possibility of the practice being perpetuated since it will take a few more years for Jubilee historical data to become available. The Committee wishes to highlight that this could lend itself to deliberate over-estimation by the government, if unchecked. As explained earlier on, the Benchmark Revenue is based on projected crude oil prices and production volumes. If the Benchmark Revenue is overestimated, a higher amount would be approved for transfer into the Annual Budget Funding Amount (set in the 2011 supplementary budget as 70 percent of the Benchmark Revenue). This could adversely affect the growth of the Ghana Petroleum Funds, which have been created as a saving mechanism. When actual revenues are lower than projected, government is able to draw on the Stabilisation Fund to cover the difference on the amount expected for the budget in that year.

This is why the Benchmark Revenue projections must be reliable and certified.

2.2 Findings

- i. In determining Benchmark Revenue the Government used conservative estimates based on international crude oil prices presumably since there is no historical data as yet for the Jubilee field.
- ii. The mid-year enactment of Act 815 led to the Benchmark Revenue being determined in July 2011 during the presentation of the supplementary budget for 2011, thereby revising the first projection of petroleum revenue for that year as estimated in November 2010 prior to the passage of the law. The late determination of the Benchmark Revenue was therefore done as a special case considering the operational challenge of Act 815 in its first year of implementation.
- iii. The Committee did not find any evidence that the requirement for the opinion of an international expert to be consulted was followed in the determination of the 2011 Benchmark Revenue.

CRUDE OIL LIFTING

3.1 Introduction

During the period under review the Public Interest and Accountability Committee considered Ghana's total crude oil lifting from the Jubilee fields and compared it with the fiscal terms defined in the Petroleum Agreements governing the Deepwater Tano (DT) and West Cape Three Points (WCTP) blocks.

3.2 Ghana's Crude Oil Lifting

According to the GNPC, crude oil lifting followed a Crude Oil Lifting Agreement (COLA) signed among the Jubilee field partners. A total of 20,521,263 barrels was lifted by the private operators, being about 84% of the overall volume of oil lifted for the year ending 2011. The Government of Ghana/GNPC lifted 3,930,189 barrels, about 16% of total lifting.

The volume of crude oil lifted by all the partners in the period under review is presented in Table 3.

Table 3: Crude Oil Lifting on Jubilee License in 2011

Crude Oil Lift (Barrels)	Q1	%	Q2	%	Q3	%	Q4	%	Total	%
Total lift	4,627,701	100	5,970,237	100	6,966,962	100	6,886,552	100	24,451,452	100
Partners	3,632,442	78.5	4,975,546	83.3	5,976,192	85.8	5,937,083	86.2	20,521,263	83.9
GOG/GNPC	995,259	21.5	994,691	16.7	990,770	14.2	949,469	13.8	3,930,189	16.1

Source: Ministry of Finance and Economic Planning, 2012

Analysis of information provided by the Ghana National Petroleum Corporation (GNPC) showed that Ghana's lifting was consistent with the Petroleum Agreement. Ghana's entitlement is made up of a royalty of 5% of gross production and participating interest of 13.75% of net production. Thus, the cumulative entitlement of the Government of Ghana/GNPC stands at 18.0625% (See Table 4 for computation of Ghana's share of crude oil). Thus, Ghana's lifting of 16% of total oil lifted in 2011 was short by about 2% to complete the lifting cycle. The shortfall was in accumulated stock for Ghana awaiting the completion of the lifting cycle, which was subsequently lifted on the 3rd January, 2012.

Table 4: Ghana Group Oil Entitlement for 2011

Royalty	5% of gross production		5
Carried and Participating Interest	Carried Interest	10% net production	13.0625
	Participating Interest	3.75% net production	
	Total:	13.75% of net production (13.75*0.95)	
Ghana Group entitlement (%)			18.0625

Table 5: Crude Oil Lifting by Jubilee Field Partners in 2011

COMPANY	QTYLIFTED (BBL)	%LIFTED	YEAR END STOCK	TOTAL
Tullow Ghana Ltd & EO Group	8,617,372	35.24278		
Kosmos	5,970,592	24.41815		
Anadarko & Sabre OG Ltd	5,933,299	24.26563		
Ghana Group	3,930,189	16.07344	649,138	4,579,327
TOTAL	24,451,452	100	914,362 ⁸	25,365,814

Source: Ghana National Petroleum Corporation (GNPC)

3.3. Findings

- i. Ghana's lifting of crude oil was consistent with the Petroleum Agreements reflecting a royalty of 5% of gross production and a carried and participating interest of 13.75% of net production.
- ii. Lifting of crude oil in 2011 spilled-over into 2012 in accumulated stocks of 649,138 barrels of oil, being about 2% of total Ghana share for 2011. The accumulated stock by the end of December 2011 was not lifted until 3rd January, 2012. This translated into revenue overspill of US\$72,463,275 million (at the realized crude oil price of US\$111.63 per barrel).⁹
- iii. Crude oil liftings are done in parcels of around 950,000 barrels per lifting and technically only the variance of 265,224 barrels taken on the 3rd of January should be regarded as Ghana's share of production in the first quarter of 2012.

⁸ Quantity lifted on 3rd January by the Ghana Group – The quantity of oil lifted on the 3rd January included 649,138 barrels of oil spilled over into 2012. Thus, actual lifting in the first quarter of 2012 was 265,224 barrels.

⁹ GNPC – Data to the Office of the President, 2011-2012.

GHANA GOVERNMENT PETROLEUM REVENUE

4.1 Introduction

During the period under review the Public Interest and Accountability Committee considered Ghana's total petroleum receipts and the different contributing revenue streams. It then carried out an analysis of the actuals against the projections made¹⁰.

4.2 Gross revenue

Based on total crude oil lifting and realized crude oil prices, the total petroleum revenues received by the Government of Ghana group (including GNPC) came to US\$444,124,724. This was net of marketing cost amounting to 314,415.¹¹ (See Table 6 below).

Table 6: Ghana Group Revenues based on Crude Oil prices and Oil lifting in 2011

Item	Total lift	GOG/GNPC lift	Market price/bar (US\$)	GOG/GNPC Gross revenue (US\$)	% oil liftings
Q1	4,627,701	995,259	112.804	112,269,196.2	21.5
Q2	5,970,237	994,691	116.276	115,658,690.7	16.7
Q3	6,966,962	990,770	110.67	109,648,515.9	14.2
Q4	6,886,552	949,469	112.55	106,862,736	13.8
Total value of petroleum sales				444,439,138.8	16.1
Less Market Cost				314,415.12	
Gross GOG/GNPC Receipts				444,124,723.7	

Source: Ministry of Finance and PIAC computations

4.2. Analysis of actuals against projection

The petroleum revenues are composed of the different receipt types as listed on page 5. By breaking down the gross revenues we can see that carried and participating interests received exceeded their targets, whilst royalty and corporate tax fell below target. (See Table 7 for comparison between the forecast and actual). Table 7 reveals that the outturn of GH¢666 million as at the end of December 2011 was significantly less than the GH¢1.25 billion forecast.¹²

¹⁰ As covered in Section 2 of this report.

¹¹ Marketing cost is \$0.08 per barrel of crude oil and when multiplied by the total crude oil lifting of 24,451,452 barrels gives a total marketing cost of \$314,415.12.

¹² Total receipts for 2011 amounted to US\$444,124,723.7 and this translates to GH¢666 million based on Government reference exchange rate of GH¢1.5 to the US Dollar.

Table 7: Oil Receipts for 2011 – Forecast Versus Actual by Revenue Stream

Revenue Stream	Actual (GH¢ mil)	Forecast (GH¢ mil)	Variance (GH¢ mil)
Total Oil Revenue	666.2	1,250.0	(-) 583.8
o/w Royalties	184.4	201.25	(-) 16.9
o/w Carried and Participating Interest	481.8	445.77	36.03
o/w Corporate Taxes	NIL	603.76	(-) 603.76

Sources: Government of Ghana-2011 Supplementary Budget; 2012 Budget Statement; Petroleum Receipts and Distribution Report for Period Ending 30th September 2011 and 31st December 2011.

4.2.1. Royalties

The estimate for royalties during the period was GHS 201.25 million, but the outturn was GH¢184.4 million, a difference of GHS 16.85 million. The royalties collected during the period represent 27.7% of the total oil receipts.

4.2.2. Participating and Carried Interest

Carried and participating interest was the largest revenue stream for the year contributing 72.3% of the reported oil receipts. A total of GHS481.8 million was received as carried and participating interest as against an estimated amount of GHS445.77 representing a positive variance of 8 percentage points above the target.

4.2.3. Corporate Income Taxes

Corporate taxes were not paid by oil companies because they did not declare taxable profit. The capital allowance provision in the tax law allows oil companies to pay corporate taxes based on an annual recovery of 20% of capital costs, as discussed further in Section 4.2.6).¹³

The PIAC also observed that in addition to the private oil companies, the GNPC was also not in a position to pay corporate tax.

4.2.4. Additional Oil Entitlement

Ghana's petroleum fiscal regime includes a progressive resource rent tax, known as Additional Oil Entitlement (AOE), designed for the purposes of capturing a progressively larger share of the profit from very projects with a high rate of return. The AOE calculation operates by applying an increasing marginal tax rate as the investor's inflation-adjusted rate of return exceeds a set of increasing thresholds.

During the period under review there was no AOE due to lower than expected production and losses carried forward from 2010.

¹³ Government of Ghana – 2012 Budget Statement, Page 15.

4.2.5. Surface Rentals and Other

Section 6 of Act 815 considers surface rentals as part of the oil receipts. The GRA reported that surface rental for 2011 was collected by the Government of Ghana. The rentals were paid into Government of Ghana Non-Tax Revenue Account in 2011. The payment procedure is that the Oil Companies are directed to make payment into a designated account at the time of invoicing. Prior to Act 815, GNPC invoiced the International Oil Companies (IOCs) but the beneficiary account details on the Commercial Invoices stand in the name of Government of Ghana. In 2011, the IOCs were invoiced before the enactment of Act 815.

Therefore, for 2011, surface rentals were not accounted for in the Petroleum Holding Fund. The failure to record the value of the rent therefore undervalued the Ghana Petroleum Holding Fund and did not comply with the provisions of Act 815.

The PIAC was not able to establish if any other payments were made which should have gone into the Petroleum Holding Fund.

4.2.6 Analysis

The major cause of the revenue shortfall during the period was the non-payment of taxes which were projected at GHS603.76 million. The Ministry of Finance and Economic Planning explained that the non-payment of corporate taxes by oil companies resulted from 'carry-forward losses'¹⁴.

The Petroleum Income Tax Law 1987 (PNDC Law 188) and the Petroleum Agreements signed with the oil companies on the Jubilee licences provide a capital allowance of a 20% annual cost recovery for 5 years, starting from the year of production. Thus, the oil companies were entitled to capital allowance of 20% in 2010, but with revenues not flowing in from the export of crude oil in the production commencement year, losses were reported. The reported losses were subsequently carried forward to 2011, which in addition to capital allowances for 2011, thereby reduced any taxable profits for 2011.

The GRA explained that it had given Government an indication of the non-tax paying position of the companies during the period and could not provide other factors that might have influenced the Government's tax projections. On the other hand, the Ministry of Finance and Economic Planning explained that the projection of corporate taxes for 2011 was based on the estimates of oil production and crude oil prices for the year and did not take into consideration the losses reported in 2010. Late negotiations over payment of taxes in October 2011 between the Minister of Finance and Economic Planning and the oil companies did not resolve the issue as the oil companies cited potential violations of the Petroleum Agreements and the Petroleum Income Tax law.

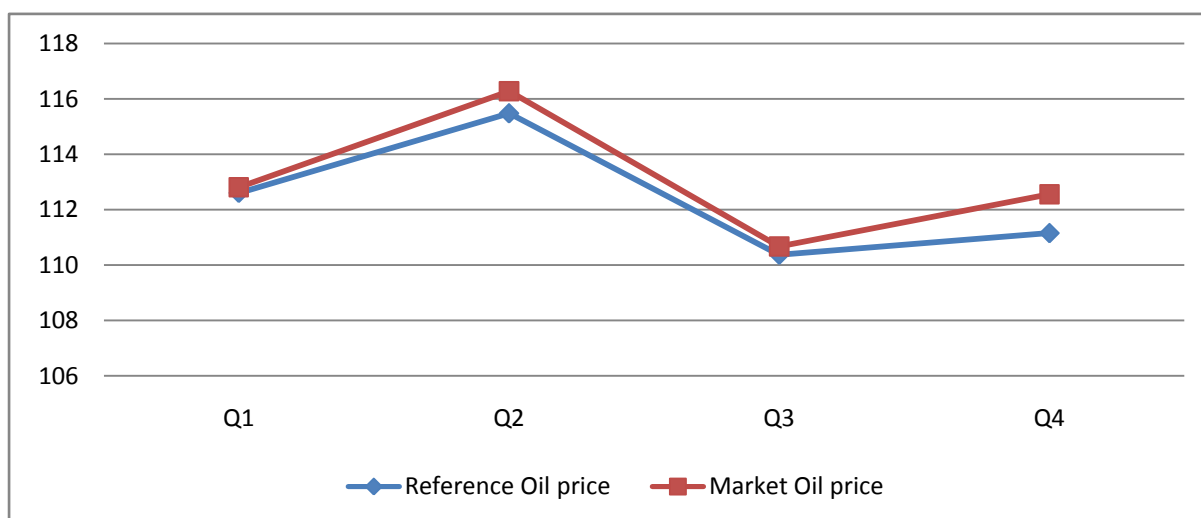
The lower than forecast levels of oil production reported also adversely affected petroleum revenues. Actual production was lower than forecast production due to underperformance

¹⁴ Government of Ghana – 2012 Budget Statement, Page 15.

of the oil wells resulting from “technical challenges” in the oil fields.¹⁵ Government’s projection of crude oil production for 2011 was put at 84,000 barrels of crude oil per day.¹⁶ However, the reported average daily production for the year ended at 64,000 barrels.¹⁷

Contrarily, crude oil price forecasts used by the Government were slightly lower than realized prices (See Figure 3 for crude oil price differential). This led to modest revenue gains of about \$2,306,877 based on the quantity of crude oil lifted by the Government of Ghana (See comparison of Government of Ghana/GNPC Gross revenues in Appendix 3). It was also established that Ghana’s realized crude oil prices were relatively more competitive than the prices of other Jubilee partners.¹⁸

Figure 3: Quarterly Crude Oil Price Changes in 2011



Source: Ministry of Finance and Economic Planning – Petroleum Receipts and Distribution Report for Period Ending 30th September 2011 and Ending 31st December 2011.

4.3. Accounting for Revenue received as Oil in the Petroleum Holding Fund

Act 815 recognizes the relevance of timing for lifting of crude oil and payment of cash into the Petroleum Holding Fund. The Act requires that crude oil price on the date of oil lifting shall be recorded in the Petroleum Holding Fund. However, it is not clear how any differences will be dealt with if the price on the day of lifting differs from the sale price. Section 4(1) states:

“Where Government elects for payment in petroleum instead of cash, the value of petroleum in US dollars on the day the petroleum is received by or on behalf of the Government, shall be reported and recorded by the Ghana Revenue Authority as the payment for the Petroleum Holding Fund”

¹⁵ Tullow Oil Plc – Trading Statement and Operational Update sourced from www.tulloil.com

¹⁶ Government of Ghana – 2011 Supplementary Budget Statement

¹⁷ Tullow Oil, www.tulloil.com

¹⁸ Tullow Oil Plc – Trading Statement and Operational Update sourced from www.tulloil.com

And Section 4(2) goes on to provide that:

“the proceeds of sale of the petroleum shall be credited to the Petroleum Holding Fund within sixty calendar days after the receipt of the petroleum”.

Even though this scenario is yet to present itself, possible occurrence of differences and how they are to be managed should be addressed either through amendment or by regulations.

Also, in the event that the Government of Ghana hedges its oil at an agreed minimum price as was done from May to December 2011¹⁹, a valuation problem could arise if crude oil price on the date of oil lifting is lower than the minimum hedged price. In this case, a lower value for oil lifted would be recorded in the Petroleum Holding Fund and not the hedged price which has been received.

4.4 Final value of the Petroleum Holding Fund in 2011

The Petroleum Holding Fund is to receive payments from all the revenue streams mentioned above according to Section 6 of Act 815. However, Section 7 of the same act goes on to isolate equity financing costs and transfers (in oil or cash) to the national oil company for deduction from gross receipts from carried and participating interest prior to payment into the Petroleum Holding Fund.

Accordingly, the GNPC was allocated GH¢315,390,698 in 2011, being 47% of total Government oil receipts.

With the transfer to GNPC removed from the gross revenue, the value of the Petroleum Holding Fund was GHS 354,240,632 to be spent as had been authorised during the approval of the Benchmark Revenue by Parliament.

Table 8: Benchmark Revenue Computations for 2011 – forecast versus actual

Transfers	Actual (GH¢)	Target (GH¢)	Variance (GH¢)
Total Oil Revenues	666,187,085.6	1,250,000,000	583,812,914.4
Transfer to GNPC	315,390,698	327,337,152	11,946,454.0
Benchmark Revenue	354,240,632.0	923,446,572	569,205,940

Source: Fiscal Data, 2011, Ministry of Finance and Economic Planning

4.5. Finding

- i. There were wide disparities in petroleum revenue for 2011 between the forecast and the outturn. All the revenue streams fell short of their forecast with the exception of carried and participating interests. Corporate taxes in particular were not collected due to capital cost recovery provided for in the Petroleum Income Tax Law 1987 (PNDC Law 188).
- ii. The forecasting methodology as specified in the Act 815 was strictly not being complied with, reportedly due to lack of historical price data on jubilee crude oil.

¹⁹ Government of Ghana, 2012 Budget Statement - The Government of Ghana explained that from May to December 2011, it extended hedging of crude oil purchases to crude oil sales which helped in smoothing oil revenues in the year and its effect on the budget.

In forecasting corporate taxes, the Ministry of Finance and Economic Planning also failed to consider the advice of the GRA on the tax-paying position of the oil companies which then raised problems of institutional coordination. Further, the Ministry's reliance on negotiating corporate taxes with oil companies based on moral suasion is not in tune with established international practice.

- iii. Efforts have been made by the GRA to build on the capacity of its officers particularly those in the Petroleum Tax Unit. However, enhancing technical capacity must remain a priority in the areas of tax assessment and cost auditing for the new upstream petroleum sub-sector.
- iv. Ghana is managing to sell its share of the production in a timely manner following liftings; payment for crude oil sales did not exceed a week from the date of lifting. In the case of the third lifting, cash payment had been received before the physical lifting of crude oil. The Committee therefore did not find any revenue gains or losses resulting from the time lag between oil lifting and cash payment.
- v. The final value of the Petroleum Holding Fund, according to provisions in the law for it to be net of equity financing and amounts to be ceded to the national oil company, came to GHS 354,240,632. This value conflicts with the provisions given in the First Schedule which accompanies Section 17 which sets out the methodology for the determination of the Benchmark Revenue. Under section 6, the Petroleum Holding Fund is described as gross receipts from all components of petroleum revenue listed in that section. This is further confirmed by the methodology to be used in establishing the Benchmark Revenue in Section 17 (First Schedule). Section 7, however, truncates the amount by setting aside the amounts designated to be paid to the national oil company thus creating some amount of confusion over the determination of the Benchmark Revenue.

DEVELOPMENT AND OPERATIONAL COSTS

5.1 Introduction

The Committee was able to acquire information on the exploration, development and operational costs for Jubilee field. GRA has stated they are unable to confirm the cost details until they have completed the ongoing audit of the financial statements of the companies operating in the blocks where the Jubilee Field is situated. This section presents the information that is available thus far.

5.2 Operational and capital costs as at end 2011

The Committee was informed that the total capital expenditure on the Jubilee Phase I project which includes the exploration, appraisal and development cost for the West Cape Three Points and Deepwater Tano blocks as at December 2010 stood at US\$4.1 billion (See Table 9 for cost data). The operational cost on the other hand was US\$20,636,909. By the end of 2011 this had evolved to a total of US\$5.8 billion for development costs and US\$160,114,162

The Jubilee partners were leasing the Kwame Nkrumah FPSO until Tullow Oil completed its purchase from Modec, on behalf of the Jubilee Partners on 29 December 2011. Even though the purchase was concluded in 2011, the agreement with the Government of Ghana was that companies could not list it for tax purposes until 2012, therefore they will begin deducting it as a capital cost from 2012 onwards, and not from 2011.

Due to the additional participating interest acquired by GNPC, its share of equity in the development cost as at 31st December, 2011, was US\$165.8 million. Of this amount, US\$134.48 million has been settled from its share of Jubilee proceeds. The balance will be covered from its proceeds in 2012.

Table 9: Summary of Petroleum Cost as at December 31, 2011

ITEM	COST DESCRIPTION	DWT US\$ TO END 2010	WCTP US\$ TO END 2010	TOTAL TO END 2010 US\$	TOTAL TO END 2011 US\$
A	Exploration and Appraisal Cost	357,675,710.29	572,923,290.00	930,599,000.29	1,789,125,316.45
B	Development Cost	1,741,358,921.0	1,477,130,753.00	3,218,489,674.03	4,040,560,975.88
C (A+B)	Total Development Cost	2,099,034,631.32	2,050,054,043.00	4,149,088,674.32	5,829,686,292.33
D	Production Cost	8,128,892.16	12,508,017.00	20,636,909.16	160,114,162.64

Source: Ghana National Petroleum Corporation

5.3 Projected capital and operational costs in 2012

The Committee received the approved budget for the Jubilee field in 2012, which is complemented by information on further development plans for the Jubilee field and the related capital costs. The total amount to be spent in 2012 for development and production comes to US\$1.9 billion, see table 10.

Table 10: Budget for Jubilee Field costs in 2012

Description	Development Cost US\$'000	Production Cost US\$'000	Total US\$'000
Development Cost -Phase I	284,009		284,009
Development Cost Phase IA	545,332		545,332
FPSO purchase	754,497		754,497
Operating Costs		317,138	317,138
Parent Co Overhead	2,396	500	2,896
Total US\$'000	1,586,234	317,638	1,903,872

Source: Ghana National Petroleum Corporation

It must be stated that the capital cost as at the end of December 2011 and early 2012 increased as a result of new developments. This included remedial works on the poor performing wells, and the next phase of Jubilee Phase IA in 2012. The remedial works which cost US\$400 million covered the sidetracking of the J-07 production well using a new completion design which is now on-stream and being closely monitored.

Further remedial works are planned for 2012 and will include acid stimulations and additional recompletions. Following approval of the Development Plan for the phase IA of Jubilee, development of the fields started in February 2012, with the start of drilling of the first production well, and is expected to continue over the next 18 months. This development is expected to cost approximately \$1.1 billion and will cover eight new wells; five producers, three additional water injectors and the expansion of the subsea network. The first of the Phase IA wells is expected to come on stream from late in the second quarter of 2012²⁰. As noted earlier, the acquisition of the FPSO in late 2011, will be classed as a capital cost in 2012 for tax purposes. The value of the FPSO is US\$755 million.

The progress made in the Tweneboa, Enyera, Ntomme cluster development in the Deep Water Tano Block called the TEN projects, which is expected to be developed using a single FPSO, will further add to the capital cost. Therefore, cost recovery is expected to last longer.

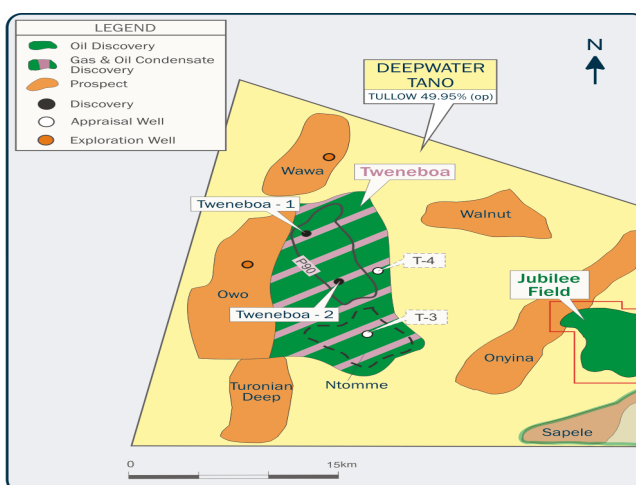


Figure 4: The TEN Cluster Area in the Deep Water Tano Block

²⁰ Tullow Oil Trading Statement, 2011 – www.tulloil.com

Tullow's annual report for 2011 projects total spending in Ghana for 2012 to reach \$10 billion in 2012, an increase on \$6.6 billion in 2011. These figures refer to all its operations in Ghana, not just the producing Jubilee Field.

5.4 Marketing cost

A marketing contract was signed between GNPC and Vitol/Cirrus Energy Services Ltd (now Woodfields Energy Resources Ltd), a consortium of the world's largest independent oil trader and the leading Oil Trading Company/Bulk Distribution Company in Ghana, to jointly market its crude oil. GNPC explained that the selection was influenced by track record and local content considerations; and that the consortium was selected through a competitive tendering process in line with the Public Procurement Act.

Thirteen (13) companies in all were invited to bid for the marketing contract but twelve (12) companies, both foreign and Ghanaian, responded. These were; Arcadia, Shell, Glencore, Trafigura, Vitol, Gunvor, CEPSA, Chase Petroleum/JP Morgan, Petrosummit Limited, Fueltrade, Sage Petroleum and Cirrus Oil Ghana Limited. Socar Trading SA could not respond. GNPC explained that the rest of the entities had different degrees of global marketing experience. However, none could match the local content credentials of the Vitol/Woodfields consortium.

Apart from the reported marketing cost of \$0.80 per barrel, the other details of the marketing agreement, which ended in 2011, have not been disclosed. The PIAC has requested a copy of the marketing agreement from GNPC.

5.5. Findings

- i. Considering the fact that the Jubilee field holds estimated recoverable reserves of about 800,000,000 barrels of crude oil, the finding costs of Jubilee reserves at about US\$6.92 per barrel make the Jubilee project a competitive one. The average worldwide finding cost for Financial Reporting System Companies (FRSC) is US\$18.31 per barrel of oil equivalent.²¹
- ii. The GNPC followed the provisions of the Public Procurement Act in the procurement of a marketing contract for Ghana's share of crude oil. Vitol/Cirrus, the marketing contractors were selected through a competitive process. Vitol is also the marketer for Tullow Oil's share.
- iii. The price realized by the GNPC for Ghana's crude oil from its marketing agreement was slightly higher than that of the other Jubilee partners. Ghana's realized average crude oil price was US\$113 per barrel compared to Tullow Oil's realized average price of US\$112 per barrel for the same period.

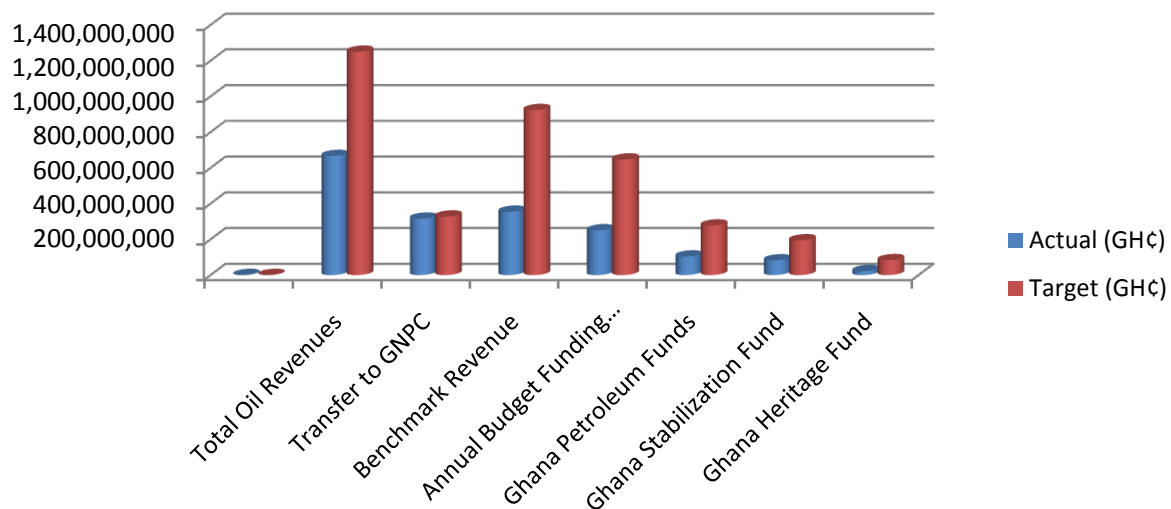
²¹http://205.254.135.7/finance/performanceprofiles/about_companies.cfm
(date visited March 28th 2012)

ALLOCATION OF PETROLEUM REVENUES

6.1. Introduction

In line with Act 815, Government allocated the total oil receipts to the appropriate fiscal destinations. Figure 5, however, shows that the allocations were far below target. The Annual Budget Funding Amount, the Ghana Stabilization Fund and the Ghana Heritage Fund were less than target by GH¢395,980,000.7, GH¢111,915,435, and GH¢61,310,505 respectively.

Figure 5: Allocation of Petroleum Revenues



Source: Government of Ghana - 2012 Budget Statement; Ministry of Finance and Economic Planning – 2011 Fiscal Data. (see appendix 3 for exact figures)

6.2. GNPC’s Share of Petroleum Revenues

Transfers to the GNPC covered its equity financing cost and a percentage of the net cash flow from carried and participating interest, as provided for in Section 7(2) of Act 815. Accordingly, the GNPC was allocated GH¢315,390,698, representing 47% of total Government oil receipts. However, for purposes of transparency and accountability, Section 7(3) b of the Act requires that the programme of activities of GNPC be approved by Parliament every year. This is important to ensure the effective utilization of resources by GNPC.

Once GNPC’s books of account are audited and certified, the said certified accounts are submitted to the Auditor General’s Department as part of their statutory requirements and same made available to other government agencies. The Committee would like to see the publication of an interim report in the meantime.

6.3 Findings

- i. For the 2011 period under review, GNPC submitted its programme of activities to Parliament through the Minister for Energy in 2010 as part of the 2011 national budget process, as was the practice before the enactment of Act 815. However, after the passage of Act 815 it is reported that the GNPC's presentation of its programme of activities was done separately in accordance with the law during the presentation of the 2012 national budget. It is to be noted, however, that GNPC says it is not yet able to provide the Committee with a report on the use of funds (GHS 315,390,698) received to cover its activities in 2011 due to ongoing audit.
- ii. The GNPC did not pay dividends to the Government for 2011 because the corporation needed to plough back its profits to recover significant investments and operating costs associated with its participating interest.
- iii. GNPC's share of Equity and Operating costs were fully disclosed to all relevant Government of Ghana agencies including the Ministry of Finance and Economic Planning, the Ministry of Energy, Bank of Ghana, Ghana Revenue Authority and the Securities and Exchange Commission. The Company's accumulated equity cost as at 31st December, 2011, was US\$165.8million out of which US\$134.48million had been settled from its share of Jubilee proceeds.²²

²² Information provided by the GNPC on 11th April, 2012.

ALLOCATION OF THE ANNUAL BUDGET FUNDING AMOUNT

7.1 Introduction

The PIAC considered the utilisation of the funds transferred to the Annual Budget Funding Amount in 2011. However, the Committee was unable during the period to carry out a verification exercise to establish the existence of the assets which various expenditures that were reported were supposed to acquire. We expect the Auditor General's department to complement our efforts in this direction.

7.2 Allocations to the ABFA

The projected Annual Budget Funding Amount (ABFA) was GHS 646,412,601 whereas the actual realised as at the end of December 2011 stood at GHS 250,432,600.30, representing 70.7% of the net revenue of GHS354,240,632.00.²³ Of the ABFA, GHS 175,302,820 (70%) was allocated for capital expenditure and the remaining 30%, amounting to GHS75,129,780 was allocated for recurrent spending. This is in line with Section 21(4) of Act 815.

"Annual Budget Funding Amount" means the amount of petroleum revenue allocated for spending in the budget in the current financial year

Petroleum revenues contributed 4% of total capital spending by government in 2011. However, when considering only domestic financed Government capital spending for the same period, the relative contribution from petroleum revenues increases to 8.9% of the total.

Even though the ABFA represented a relatively small part of the total Government budget in 2011, about 1.7% of total budget of GH¢14,397.4 million, the PIAC has observed that with increased petroleum revenues, the Annual Budget Funding Amount is very likely to become an important source of capital investment in the country.

7.3 Capital expenditure

Section 21(5) of Act 815 requires that the Minister of Finance prioritize not more than four sectors for capital expenditure. In the Supplementary Budget of 2011, the Minister prioritized amortization of oil and gas loans, road infrastructure, agricultural modernization and capacity building. The selection of priorities was guided by the Ghana Shared Growth and Development Agenda (GSGDA), a medium term development framework.²⁴ Table 11 presents the allocation of the Annual Budget Funding Amount for capital expenditure by priority sectors.

²³ Ministry of Finance and Economic Planning – 2011 Fiscal Data

²⁴ Government of Ghana – Budget Statement, 2012.

Table 11: ABFA Capital Expenditure in 2011

	ITEM	Expenditure (GH¢)	%
1.	Expenditure and Amortization of loans for oil and gas infrastructure	20,000,000.00	11.5
2.	Road Infrastructure	134,102,367.20	76.5
3.	Agricultural Modernization	13,147,652.00	7.4
4.	Capacity Building (including oil and gas)	750,000.00	0.4
5.	Unreported spending (Q4)	7,302,800.80	4.2
	Total ABFA for Capital Expenditure	175,302,820.00	100

Source: Source: Government of Ghana - Budget Statement, 2012

However, the capital spending of GH¢168,000,019.20 reported for 2011 in the 2012 Budget statement only provided details for the first three quarters of 2011 spending. The Committee therefore notes the reported amount falls short of the annual total of capital spending from the Annual Budget Funding Amount by GH¢7,302,800.8. This was because, the last lifting of crude oil by the Government of Ghana had not been effected at the time the 2012 Budget statement was prepared, and therefore the reported capital spending was under-declared pending receipts from the last oil lifting. The Ministry of Finance and Economic Planning explained to the Committee that all disbursements have been made including the unreported remaining amount of GHS 7,302,801. The Ministry is preparing an update of the report which will provide explanations on what the remaining amount was spent. No timeline was given as to when this report would be made available.

The GHS 20,000,000 allocated for loans and amortization of oil and gas infrastructure was disbursed to the new Ghana National Gas Company for its establishment and capitalization.

In the area of capacity building, GHS 750,000 was allocated to the Kwame Nkrumah University of Science and Technology (KNUST) as counterpart funding for the US\$38 million World Bank Loan to support oil and gas sector capacity.

7.3.1. Investment in Road Infrastructure

Road infrastructure investment was the most prioritized in 2011, accounting for about 80% of the capital expenditure share of the Annual Budget Funding Amount. These investments were made in the following on-going road projects, two from every region in the country reflecting regional balance in line with Section 21(2) c of Act 815.

Table 12: Road Investment Projects (Q1-Q3, 2011)

	Name of Project	Amount (GH¢)
1	Upgrading of Sefwi Bekai-Eshiem-Asankragwa Road	11,530,624.76
2	Reconstruction of Asankragwa-Enchi Road	5,416,022.34
3	Emergency Rehabilitation works on Dansoman main road	3,320,581.31
4	Rehabilitation of Anyinam-Konongo Road, Nkawkaw by-pass (Adden No.2)	24,133,425.39
5	Partial Reconstruction of Bomfa Junction-Asiwa and Bewai-Ampaha Asiwa Road	5,387,778.17
6	Upgrading of Tainso-Badu-Adentia Road	8,553,812.88
7	Reconstruction of Berekum-Sampa Road (Km 32-88)	9,664,568.64
8	Construction of Kpando-Worawara Dambai Road Phase III	5,094,442.01
9	Emergency works on the upgrading of Ho – Adidome and Adaklu Xelekpe-Aduadi Road	3,271,079.63
10	Construction of Twifo Praso-Dunkwa Road	1,500,000.00
11	Construction of steel bridge over river Amunam and over River Kakum on Kwaprow-Ankaful Road	1,053,931.83
12	Reconstruction of Navrongo-Tumu Road	1,650,000.00
13	Construction of Wa-Han Road	2,012,082.59
14	Construction of Bamboi-Bole road (Bamboi-Tinga Section)	5,099,412.00
15	Accra-Kumasi Highway Dualisation Project: Kwafokrom – Apedwa Section	34,300,601.28
16	Reconstruction of Sunyani Road in Kumasi (Sofoline Interchange)	12,114,004.37
Total		134,102,367.20

Source: Government of Ghana - Budget Statement, 2012

7.3.2. Investment in Agriculture

Agricultural investments received almost 8% of the capital share of the Annual Budget Funding amount. These were distributed as in Table 13 with fertilizer subsidy allocated almost 63% of total amount.

Table 13: Agricultural Investment Projects (Q1 – Q3, 2011)

No	Project	Amount (GH¢)	%
1	Fertiliser Subsidy	8,240,000.00	62.7
2	Agricultural Mechanisation	236,100.00	1.8
3	Tsetse Project	1,207,635.00	9.2
4	Youth in Agriculture Project	2,000,000.00	15.2
5	Counterpart Funds for Afram Plains Area Development Project	615,000.00	4.7
6	Inland Valley Rice Development Project	346,060.00	2.6
7	Root Tuber Improvement Programme	260,975.00	2.0
8	Northern Rural Growth Programme	241,882.00	1.8
Total		13,147,652.00	100

Source: Government of Ghana - Budget Statement, 2012

7.3.3. Analysis of Capital Expenditure

The Committee observed that petroleum revenues provided significant fiscal relief to the Government thereby releasing non-oil revenues for other development projects. Table 14 shows the development of Government investments in roads and agriculture from 2008 – 2011.

Table 14: Government Investments in Roads and Agriculture (2008-2011)

Year	Roads (GH¢)	Growth	Agric (GH¢)	Growth
2008	332,306,398.93	0.00	80,937,828.95	0.00
2009	110,047,916.98	-0.67	43,702,197.60	-0.46
2010	270,049,196.56	1.45	92,403,191.69	1.11
2011 ²⁵	360,483,127	0.33	73,178,765	-0.21
2011 ²⁶	689,787,153	1.55	223,871,626	1.42

Source: Government of Ghana Budgets – 2009, 2010, 2011, 2012

Trends in roads and agricultural investments have not been stable in the past four years, especially with negative growth in 2009 due to the fiscal consolidation embarked on by the Government.²⁷ The investments in 2011 included the allocation of petroleum revenues of GHS 134,102,367.20 and GHS13,147,652.00 invested in roads and agriculture respectively. The growth of investment in roads and agriculture with and without petroleum revenues are shown in the following graphs. Graph A and B show that if one extracts petroleum revenues, there would have been a negative growth in road investments and a worsening

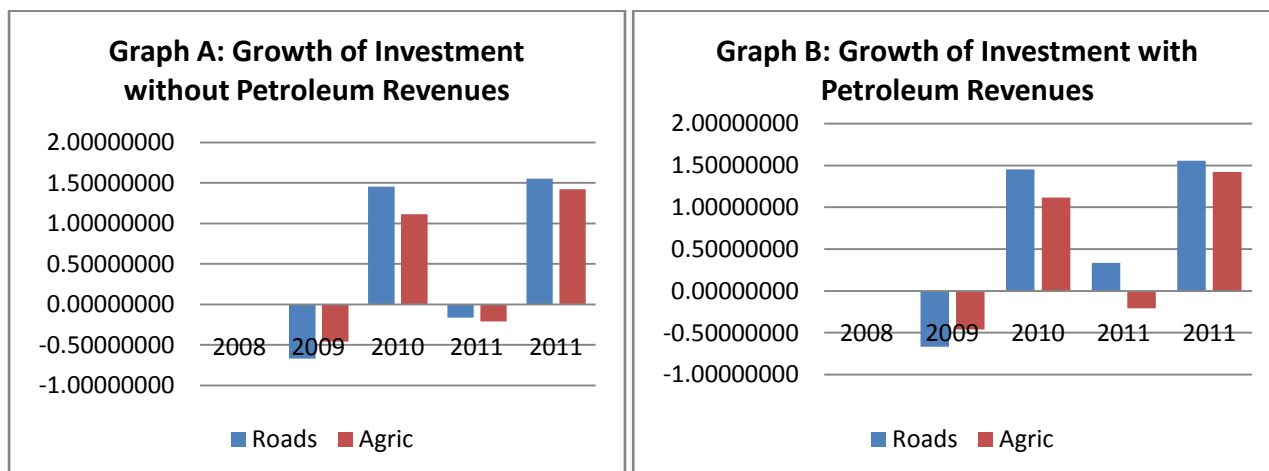
²⁵ Figures covered actual investments for the period Jan – September, 2011

²⁶ Represent planned investments for 2011

²⁷ Government of Ghana (2012) Joint Public Expenditure Review

growth for agriculture investments. Thus, petroleum revenues will continue to provide relief for Government investments.

Figure 6: Growth of Public Investments in Roads and Agriculture (2008-2011)



Source of Data: Government of Ghana Budgets – 2009, 2010, 2011, 2012

7.4. Collateralization of the Annual Budget Funding Amount

The law allows for the ABFA to be used as collateral for loans and other Government liabilities as provided for in Section 18(7) of Act 815. The PIAC is interested in monitoring the disbursement of such collateralized loans, since they are upfront spending of oil revenues. PIAC is particularly interested in the choice of projects and value for money to ensure that current spending of future petroleum revenues does not compromise the development objective of the Petroleum Revenue Management Act.

The Government of Ghana has already signed a loan agreement with China Development totalling US\$3 billion. The loan was collateralized against the Annual Budget Funding Amount. The loan which was approved by Parliament will be spent on the following projects:

- a. Accra Metropolitan Area Intelligent Traffic Management Project;
- b. Accra Plains Irrigation Project;
- c. Coastal Fishing Harbours and Landing Sites Project;
- d. Eastern Corridor Multi-Modal Transportation Project;
- e. Western Corridor Gas Infrastructure Project (Helicopter Surveillance Fleet for Western Corridor “Oil Enclave”);
- f. Western Corridor Petroleum Terminal Project;
- g. Western Corridor Infrastructure Renewal Project (Western Railway Line Modernization and Takoradi Port Rehabilitation/Retrofit);
- h. Sekondi Free Zone Project;
- i. Development of ICT Enhanced Surveillance Platform for Western Corridor “Oil Enclave”; and
- j. SME Projects Incubation Facility.

These projects are infrastructural projects which are consistent with the priority spending provisions of the Petroleum Revenue Management Act.

It is important to note that one of the shortcomings of the provision for collateralization of the Annual Budget Funding Amount is that whereas it provided an exit period of 10 years from the commencement of Act 815, it does not provide restrictions on the total amount of debts that can be collateralized. The tendency to accumulate debts whose servicing could exceed the petroleum revenue cycle is therefore very high with grave consequences for the economy of Ghana particularly if the loans are not invested productively and efficiently.

The PIAC is to monitor the management of petroleum revenues, but there is a lack of clarity around PIAC's mandate to monitor the expenditure of loans contracted using the ABFA as collateral since the loan amounts are not explicitly recognised by Act 815 as petroleum revenues. Nevertheless since the ABFA will be used to service the loans in the future, the use of the loans is of interest to the PIAC.

7.5 Findings

- i. The selection of the priority sectors for spending the ABFA was guided by the Ghana Shared Growth and Development Agenda, a medium term development framework which puts greater emphasis on road infrastructure and agricultural modernization. The Minister therefore complied with sections 18(2) and 21(2) d of Act 815. However, this was not aligned to a long-term national development plan, as required under Act 815 because of the absence of such a long-term plan.
- ii. Government allocated more than 70% of the Annual Budget Funding Amount for capital expenditure, an important requirement of Act 815.
- iii. Petroleum revenues provided significant fiscal relief for Government to finance important development projects. With petroleum revenues removed from the equation, there would have been a negative growth in roads investments and a worsening growth for agriculture investments.
- iv. The Government of Ghana has signed a loan agreement with China Development totalling US\$3 billion which was collateralized against the Annual Budget Funding Amount.

'Collateralization' is the act where a borrower pledges an asset as recourse to the lender in the event that the borrower defaults on the initial loan. Collateralization of assets gives lenders a sufficient level of reassurance against default risk.

THE GHANA PETROLEUM FUNDS

8.1 Introduction

The PIAC considered the transfers from the Petroleum Holding Fund to the Ghana Petroleum Funds in 2011 to establish compliance with Act 815 and also considered the manner in which the Funds were invested.

8.2 Transfers to the Ghana Petroleum Funds

The Ghana Petroleum Funds consist of the Ghana Heritage Fund and the Ghana Stabilization Fund. The Ghana Heritage Fund is to “provide an endowment to support development for future generations when petroleum reserves have been depleted”. The Ghana Stabilization Fund is “to cushion the impact on or sustain public expenditure capacity during periods of unanticipated petroleum revenue shortfalls”. The Ghana Petroleum Funds receive revenues in excess of the Annual Budget Funding Amount.

The transfers to the Ghana Petroleum Funds are by percentages approved by Parliament. Section 23(1)a provides that:

“Where petroleum revenue collected in each quarter of any financial year exceeds one-quarter of the Annual Budget Funding Amount of the financial year, as determined in section 18, the United States Dollar equivalent of the excess revenue collected shall be transferred from the Petroleum Holding Fund into the Ghana Petroleum Funds”

The Committee found that transfers were made into the Ghana Petroleum Funds even though the Annual Budget Funding Amount had not been exceeded in any quarter. This action has enabled the Funds to be set up and invested in the first year of operation.

The total transfers to the Ghana Petroleum Funds in 2011 were distributed as indicated in Table 15.

Table 15: Transfers to the Ghana Petroleum Funds

Allocation	Amount (Actual) - GH¢/*	%	Amount (Act 815) - GH¢	%
Transfer to the Ghana Petroleum Funds	103,808,031.7	100	103,808,031.7	100
o/w Ghana Heritage Fund	21,799,687.0	21	31,142,409.51	30
o/w Ghana Stabilization Fund	82,008,345.0	79	72,665,622.19	70

Source: Ministry of Finance and Economic Planning - 2011 Fiscal Data

Note: In the budget statement the amounts are reported in Ghana Cedis, however, the reporting on investments is done in US dollars by the Bank of Ghana.

8.3. Allocation to the Ghana Stabilisation and Heritage Funds

The Committee found that there was a compensating error in the distribution of funds to the Stabilisation and Heritage Funds, which together constitute the Petroleum Funds, leading to a slight deviation from the requirement of Act 815, Section 23(1)b:

“ A minimum of thirty percent of the excess revenue determined in subsection (1) (a) shall be transferred into the Ghana Heritage Fund and the balance shall be transferred into the Ghana Stabilisation Fund each quarter”.

That is, the allocation to the Ghana Heritage Fund shall not be less than 30% of the excess revenues over the Annual Budget Funding Amount. Thus, the allocation of 21% of the excess revenues to the Ghana Heritage Fund and 79% to the Ghana Stabilization Fund are not consistent with Act 815.

The PIAC is of the view that this anomaly must be addressed to ensure that the balances standing in the Ghana Petroleum Funds are correct.

8.4. Investment of Ghana Petroleum Funds

The Bank of Ghana reported that the Ghana Petroleum Funds were invested in Euroclear Bonds which according to the Bank are triple A Commercial Papers. The Bank also reported that considering current market volatility, these investments were safe or conservative. Prior to investing the funds in Euroclear funds, the funds were used to purchase US Government Treasuries through the Federal Reserve Bank of New York. According to the Bank, the funds were later moved from the US Federal Reserve to Euroclear funds because the Federal Reserve’s rates of interest were low.

As of 10th January, 2012, the balance of Ghana Petroleum Funds held at the Federal Reserve Bank of New York was \$27,653.61. Due to the US Treasury yield being much lower, the Bank of Ghana invested the Ghana Petroleum Funds as in table 16.

Table 16: Petroleum Fund Euroclear Bond investments

Category	Invested	Expected Earning
a. Three months – Ghana Stabilization Fund	US\$54.8 million	US\$32,442.20
b. Six months – Ghana Heritage Fund	US\$14.4 million	US\$39,206.60
Total earnings from Investment of Petroleum Funds–		US\$71, 648.8

Thus, the Eurobonds together with the funds held at the New York Federal Reserve Bank, the total in Ghana’s Petroleum Funds should be US\$69,227, 653. The balances standing in the Ghana Petroleum Funds are set out in Table 17.

Table 17: Balances in the Ghana Petroleum Funds

	Euroclear Bonds		US Federal Reserves
Item	Ghana Stabilization Fund	Ghana Heritage Fund	
Nominal Income	US\$54,800,000.00	US\$14,400,000.00	
Investment yield	US\$ 32,442.20	US\$ 39,206.60	
Balance	US\$54,832,442.20	US\$14,439,206.60	\$27, 653.61
TOTAL	US\$69,227, 653		

Source: Bank of Ghana

According to the Bank of Ghana, the current investments are of an interim nature because the investments “are still taking off and are in the teething stages”. The Bank explained that it went for three month maturity bonds for the Stabilization Fund to ensure liquidity/cash availability while it invested in six month bonds for the Heritage Funds because they may not be needed immediately.

8.5. Advice Given by the Investment Advisory Committee

Section 29 of Act 815 mandates the creation of an Investment Advisory Committee to formulate and to provide broad guidelines and overall management strategies to the Minister of Finance relating to the Ghana Petroleum Funds. The Investment Advisory Committee is expected to submit its recommendations to the Minister of Finance who is required to submit investment advice it receives to Parliament for approval.

According to the Bank of Ghana, the Investment Advisory Committee was formed on 22nd January, 2012 and by 13th March, 2012 it had met two times. Apparently with the Investment Advisory Committee’s formation being very recent, the Bank of Ghana has not received any advice from the Investment Advisory Committee nor has it received any written investment guidelines from the Minister of Finance and Economic Planning as prescribed in Section 25 (a) of Act 815.

The Bank of Ghana explained that it invested the Petroleum Funds based on discussions with the Minister of Finance and Economic Planning. This was necessary because by November 2011 when the investments were made the Investment Advisory Committee had not been established.

8.6. The Operational Management Agreement

Section 25(d) of the law requires the Minister of Finance and Economic Planning to enter into an Operational Management Agreement with the Bank of Ghana for the operational management of the Ghana Petroleum Funds. However, as at the time of writing this report,

the Ministry and the Bank were still negotiating the terms of the Operational Management Agreement including the Bank's service charge.

Under these circumstances, the Bank of Ghana stated that it invested the Ghana Petroleum Funds in what it described as conservative and safe investment vehicles — Euroclear Bonds, which was considered to be AAA rated.²⁸

However, the PIAC is of the view that the management of the Ghana Petroleum Funds without an Operational Management Agreement is inconsistent with the relevant provisions of Act 815. The Bank informed the PIAC that by April, 2012, all outstanding issues relating to the Operational Management Agreement would be settled and investment guidelines will be issued by the Minister of Finance and Economic Planning.

8.7. Findings

- i. There was a compensating error in the transfers to the Ghana Heritage Fund and the Ghana Stabilization Fund deviating from the provisions prescribed in Act 815. The Ghana Heritage Fund was under-declared by GHS 9 million whilst the Ghana Stabilization Fund was over-declared by the same amount.
- ii. The Investment Advisory Committee and the Minister of Finance and Economic Planning have not provided any investment advice or Investment Guidelines respectively for the investment of Ghana Petroleum Funds. The Committee is of the view however, in spite of this shortfall, that since the Investment Advisory Committee was recently inaugurated and thus barely started its work, the types of investments made by the Bank were appropriate under the circumstances.
- iii. The Minister of Finance and Economic Planning is yet to sign the Operational Management Agreement with the Bank of Ghana for the operational management of the Ghana Petroleum Funds. Therefore the current role played by the Bank in the investment of the Ghana Petroleum Funds was done outside of such an agreement.

²⁸ Information provided by Bank of Ghana to PIAC on March 13, 2012

THE ROLE OF INSTITUTIONS

9.1. Introduction

The PIAC looked at the roles assigned to each of seven key state institutions with responsibility for the management of petroleum revenues in Ghana under Act 815. It assessed their compliance with the provisions thus far.

The tables and commentary that follow reveal that most of the institutions have not completely fulfilled the mandate provided for them in the Act.

9.2. The Ministry of Finance and Economic Planning

The Minister of Finance and Economic Planning has various roles defined in several parts of Act 815. These include, but are not limited to, the choice of priority areas for spending of petroleum revenues, establishing operational agreements with other state institutions, reporting on petroleum production, revenues and expenditure, developing investment policies and the regulations for the effective implementation of Act 815.

Table 18 summarises the respective roles of the MOFEP as captured in the PMRA and assesses the extent to which the Ministry has complied with the provisions of Act 815.

Overall we observed that the Ministry largely adhered to its obligations during the period under review. However it still has some outstanding activities to fulfil to ensure that all the processes and institutions for the effective management of Ghana's petroleum revenues are in place. We therefore urge them to expedite the necessary actions.

Table 18: Summary of role of MOFEP to provisions of Act 815

SECTION	PROVISIONS RELATING TO MOFEP	YES /NO	COMMENTS
2	Establish Petroleum Holding Fund	YES	Undertaken with BOG, who established a petroleum secretariat to manage funds
17	Benchmark Revenue - not later than September 1 st of each year estimate and certify the Benchmark Revenue using the formula set out in the schedule.	NO	Benchmark revenue for 2011 was determined in July 2011 in the supplementary budget due to revision in price and production assumptions.
18(1)	ABFA – Not more than 70% of Benchmark Revenues	YES	

21(5)	Prioritization of not more than four priority sectors	YES	Amortization of loans, road infrastructure, agric modernization, capacity building
21(4)	Capital Investment - Not less than 70% of ABFA	YES	70% of ABFA has been allocated
23(1)a & b	Ghana Stabilization Fund – a maximum of 70% of Balance of Benchmark Revenue	NO	79% of Balance of benchmark revenue allocated more than the maximum of 70%
23(1)a & b	Ghana Heritage Fund – a minimum of 30% of Balance of Benchmark Revenue	NO	21% Balance of Benchmark revenue allocated less than the minimum 30%
25(d)	The Minister of Finance and Economic Planning shall enter into an Operation Management Agreement with the Bank of Ghana for the operational management of the Ghana Petroleum Funds	NO	The agreement has not been signed
48(1)	The Minister of Finance and Economic Planning to submit an annual report on the Petroleum Funds as part of the annual presentation of the budget statement and economic policies to Parliament	YES	Report provided in the 2012 Budget Statement of the Government of Ghana
8(1)	The records of petroleum receipts in whatever form, to be simultaneously published by the Minister in the <i>Gazette</i> and in at least two state-owned daily Newspapers, within thirty calendar days after the end of the applicable quarter.	YES	Ghanaian Times November 18 2011; February 17 2012
8(3)	The Minister to publish the total petroleum output lifted and the reference price in the same manner as provided in subsections (1) and (2).	YES	Ghanaian Times November 18 2011; February 17 2012
60	The minister by legislative instrument makes Regulation for the effective performance of the Act.	NO	
25(a)	Develop an investment policy for the investment of the Ghana Petroleum Funds	NO	

9.3. The Auditor-General

The main role of the Auditor General is captured Section 45 (1) of the Act which requires the Auditor General to audit and to submit to Parliament a report not later than three months after the receipt of the financial statements and other relevant documents. However, the Bank of Ghana reported to the PIAC that no audit has been conducted by the Auditor General. In the words of the Bank of Ghana, the Auditor General has to come to the Bank to conduct such an audit.

This assignment is yet to be undertaken by the Auditor General, who will also publish the reports on the Petroleum Funds within thirty days after submission to Parliament.

Table 19: Summary of role of Auditor General to provisions of Act 815

SECTION	PROVISIONS OF ACT 815	ACTORS	YES/NO	COMMENTS
46(2)	The Auditor-General not later than three months after the receipt of the financial statements and other relevant documents submit the audited report to Parliament.		NO	Not yet undertaken
46(4)	The Auditor-General shall publish the reports on the Petroleum Funds within thirty days after submission to Parliament.	AG	NO	BOG states it has submitted internal audited report to the Auditor General

9.4. The Bank of Ghana

Section 28 of Act 815 requires the Bank of Ghana to perform specific functions with respect to Ghana Petroleum Funds.

Section 28 (2) of Act 815 requires the Bank to publish two times a year its reports on the Ghana Heritage Fund and the Ghana Stabilization Fund in two state-owned national daily newspapers, but this has not been done. The failure to publish such reports in two national dailies might be attributed to the Bank's assumption that the Ministry of Finance and Economic Planning was responsible for that. The Bank had, however, complied with other provisions in Section 28 (2) to publish on its own website reports on its activities and the performance of the Ghana Petroleum Funds.

In the view of the PIAC, except for a misunderstanding over who is responsible for publishing the annual reports by the Bank in two state owned newspapers, the Bank has performed most of its roles. According to the Bank, it had created a Ghana Petroleum Funds Secretariat in respect of which it had spent \$60,000.

Table 20: Summary of role of BOG to provisions of Act 815

SECTION	PROVISIONS OF ACT 815 RELATED TO BOG	YES/NO	COMMENTS
2	Petroleum Holding Fund Established	YES	BOG established a petroleum secretariat to manage funds
28(1)	Bank of Ghana Report on the Ghana Petroleum Funds to the Minister and the Investment Advisory Committee Quarterly	NO	
28(2)	Bank of Ghana report to Parliament and publication in 2 National Dailies not later than 15 th Feb and 15 August each year	YES NO	BOG submitted report to Clerk of Parliament BOG not published reports in two state-owned dailies

9.5. Ghana Revenue Authority

Section 3(1) of Act 815 empowers the Authority to assess and collect petroleum Revenue due the Republic of Ghana. The Authority has collected oil revenues due the state. Although the GRA is still auditing the cost data of the Jubilee partners, its preliminary assessment showed that the companies are not in a tax-paying position. The authority has informed the Committee that is has an ongoing capacity training programme for its staff.

9.6. Parliament

The role of Parliament as captured in Act 815 means it has responsibility to:

- Approve the Benchmark Revenue, the Annual Budget Funding Amount and transfers to the Ghana Petroleum Funds;
- Approve ceiling on the Ghana Stabilization Fund;
- Approve the programme of activities of the National Oil Company every year
- Approve of transfers to GNPC;
- May approve after fifteen years from the commencement of this Act the spending of interest accrued on the Ghana Petroleum Funds by simple majority.

Parliament executed its mandate by giving all the approvals required by it under the law.

Table 21: Summary of role of Parliament to provisions of Act 815

SECTION	PROVISIONS OF ACT 815	ACTORS	YES/NO	COMMENTS
7(2)	Transfer to GNPC	MOFEP/PARLIAMENT	YES	
7(3)b	Approve the programme of activities of the National Oil Company for 2011	PARLIAMENT/ GNPC	YES	Not relevant for the period under review .

9.7. Investment Advisory Committee

The Investment Advisory Committee is required by the Act to advise the Minister of Finance and Economic Planning on the investment policy for investing the Ghana Petroleum Funds.

The Investment Advisory Committee was formed in January 2012 and by the end of March, 2012, the Advisory Committee had met twice. It therefore was not able to fulfil its role during the period under review.

Table 22: Summary of role of IAC to provisions of Act 815

SECTION	PROVISIONS OF ACT 815 RELATED TO THE IAC	YES/NO	COMMENTS
40(1)	The Investment Advisory Committee to submit quarterly information reports on the performance of the Ghana Stabilization Fund and the Ghana Heritage Fund to the Minister not later than thirty working days after the receipt of quarterly reports from the Bank of Ghana in accordance with the reporting requirements of the Bank of Ghana IAC	NO	The Committee was established in January, 2012
40(2)	The Investment Advisory Committee is responsible for reporting to the Minister on the performance and activities of the Ghana Stabilisation Fund and the Ghana Heritage Fund for the purpose of reporting in the annual budget and financial statements.	NO	The Committee was established in January, 2012

9.8. Ghana National Petroleum Company

In Section 7(3)b, the GNPC is required to submit its programme of activities every year for the approval by Parliament. For the 2011 fiscal year, the GNPC submitted its programme of activities through the budget process because at the time it was due the law had not been passed. The Committee would like to see increased reporting from GNPC on the use of funds received.

Table 23: Summary of role of GNPC to provisions of Act 815

SECTION	PROVISIONS OF ACT 815	ACTORS	YES/NO	COMMENTS
7(2)	Transfer to GNPC	MOFEP/PARLIAMENT	YES	
7(3)b	Submit programme of activities to Parliament	PARLIAMENT/GNPC	YES	Done through the budget process prior to passage of the law.

REVENUE PROJECTIONS FOR 2012

10.1. Introduction

For the 2012 fiscal year, Government projected Total oil revenue at GH¢1,239.82 million based on expected crude oil price of US\$90 per barrel and an average production volume of 90,000 barrels per day. This amount is slightly less than the projection made for 2011. According to the Ministry of Finance and Economic Planning, this projection was determined in accordance with the sections 6, 7 & 17 of the Petroleum Revenue Management Act, 2011, Act 815. The Ministry stated that at the time of preparing the 2012 budget, Government was in discussion with the oil companies in relation to the payment of corporate tax. The positive indication of the taxpaying position of the oil companies was the rationale for budgeting for corporate tax.

10.2. Revenue Collection Projection for 2012

The projected total revenue for 2012 includes corporate taxes projected at GH¢384.11 million, Carried and Participating Interest projected at GH¢ 618.84 million and royalties projected at GH¢ 236.87 million, as shown in Table 24. As in 2011, we note this has not included surface rentals and other items of revenue mentioned in Act 815.

Table 24: Projected Revenues for 2012 Fiscal Year

Expected Oil Revenue	Amount (GH¢ million)
Total Annual Oil Revenue	1,239.82
o/w Royalties	236.87
o/w Carried and Participating Interest	618.84
o/w Corporate Taxes	384.11

Source: Government of Ghana - Budget Statement, 2012

10.3. Benchmark Revenue for 2012

The Benchmark Revenue for 2012 was derived as per table 25, below, and revenue allocations for the various Funds are also indicated.

Table 25: Projected Transfers of Oil Revenues for 2012

	Amount (GH¢ million)
Total Oil Revenues	1,239.82
Transfers to GNPC	361.90
Benchmark Revenue (BR)	877.92
o/w ABFA(70%BR)	614.55
o/w Transfers to Petroleum Funds (30% BR)	263.28

Source: Government of Ghana - Budget Statement, 2012

10.4. Analysis of Petroleum Revenue Projections for 2012

The Petroleum Revenue Management Act 2011 (Act 815) prescribes the formula for projecting crude oil prices for purposes of revenue forecasting. Crude oil prices are based on a seven year moving average price starting from four years before the current year, the current year and two years after the current year. The Ministry of Finance could not provide evidence of the use of this formula for projecting petroleum revenues. Therefore, just as was the case in the 2011 forecasting, the projections of US\$90 per barrel and a production volume of 90,000 barrels per day were based on conservative estimates.

The projection for corporate taxes was also not in accordance with the income tax laws of Ghana, but rather based on negotiations with oil companies through moral suasion. The projection of GH¢ 384.11 million as Corporate Income Tax for 2012 implies that the projected profit for the oil companies will be GH¢1,097 million. The taxable profit, however, will depend on the capital allowance for the year as well as any other reliefs, including any losses carried forward from previous years. It is therefore likely that this amount will not be realised due to additional Capital expenditure (CAPEX) incurred in 2011. As mentioned earlier, Tullow Oil Plc has reported that it has spent US\$400 million to rework the production wells following their underperformance since the commissioning of first oil and the value of the FPSO Kwame Nkrumah will now be included as capital expenditure from 2012.

The Petroleum Income Tax Law 1987 (PNDC Law 188) provides that capital expenditure shall be recovered within five years. Thus, these additional capital costs will be divided into five equal instalments for the next five years starting from the year in which the cost was incurred. Outstanding capital allowances raise the amount of costs to be recovered with serious implications for Government revenue projections particularly with respect to corporate taxes.²⁹ In addition, the Jubilee Partners since February 2012 have also commenced drilling on the TEN Complex (Tweneboa-Enyera-Ntomme Project). According to the GRA, this is likely to have impact on the quarterly tax paying positions of the companies for the year 2012.

Though the Ministry of Finance and Economic Planning admitted that while the Benchmark Revenue was determined as far as possible in accordance with section 6, 7 & 17 of Act 815, the determination of the tax component through discussion with the oil companies in relation to the payment of corporate taxes is not good practice. Section 3 of the Act states that petroleum revenue due the state derived from whatever source shall be assessed, collected and accounted for by the GRA. The Committee believes that the GRA must be in the position to provide the Ministry with the possible tax paying position of the companies rather than allowing the Ministry to negotiate with oil companies based on moral suasion which has implications for the Petroleum Income Tax law and the Petroleum Agreements.

²⁹Tullow Oil Plc – www.tullowoil.org

The Committee also found that the projection for the revenues during 2012 does not include expected revenues from surface rentals. The Petroleum agreement between the contract groups makes provision for the collection of US\$ 100 per square kilometre as rentals for the contract development and production area annually. Section 6 of Act 815 includes the collection of annual rentals fees as part of the gross receipts for the Petroleum Holding Fund. The GRA concedes that, although it has the responsibility of collecting these fees, GNPC invoiced them for 2011 on behalf of the State but were paid into the Government of Ghana Non-Tax Revenue Account. From 2012 onwards, all assessment and collection of surface rentals will now be done by GRA and payments made directly to the Petroleum Holding Fund at the Bank of Ghana.

Upon publication of the 2012 budget statement the PIAC wrote to the Minister of Finance and Economic Planning to express its concerns regarding the inclusion of corporate taxes in the Benchmark Revenue and the implication this has on overestimating the ABFA and possible premature dependency on the Stabilisation fund when the projected amounts are not reached. The response to the request to revise the projections was that if adequate justification is available, this “should be done with the approval of Parliament”. Therefore the Committee recommends that Parliament investigate and advise the Ministry of Finance and Economic Planning accordingly.

FINDINGS FROM THE REPORT

- i. In determining Benchmark Revenue the Government used conservative estimates based on international crude oil prices presumably since there is no historical data as yet for the Jubilee field.
- ii. The enactment of Act 815 mid-year led to the Benchmark Revenue being determined in July 2011 during the presentation of the supplementary budget for 2011, thereby revising the first projection of petroleum revenue for that year as estimated in November 2010 prior to the passage of the law. The late determination of the Benchmark Revenue was therefore done as a special case considering the operational challenge of Act 815 in its first year of implementation.
- iii. The Committee did not find any evidence that the requirement for the opinion of an international expert to be consulted was followed in the determination of the 2011 Benchmark Revenue.
- iv. Ghana's lifting of crude oil was consistent with the Petroleum Agreements reflecting a royalty of 5% of gross production and a carried and participating interest of 13.75% of net production. Lifting of crude oil in 2011 spilled-over into 2012 in accumulated stocks of 649,138 barrels of oil, being about 2% of total Ghana share for 2011. The accumulated stock by the end of December 2011 was not lifted until 3rd January, 2012. This translated into revenue overspill of US\$72,463,275 million (at the realized crude oil price of US\$111.63 per barrel).³⁰ Crude oil liftings are done in parcels of around 950,000 barrels per lifting and the variance of 265,224 barrels taken on the 3rd of January should be regarded as Ghana's share of production in the first quarter of 2012.
- v. There were wide disparities in petroleum revenue for 2011 between the forecast and the outturn. All the revenue streams fell short of their forecast with the exception of carried and participating interests. Corporate taxes in particular were not collected due to capital cost recovery provided for in the Petroleum Income Tax Law 1987 (PNDC Law 188).
- vi. The forecasting methodology as specified in the Act 815 was strictly not being complied with, reportedly due to lack of historical price data on jubilee crude oil. In forecasting corporate taxes, the Ministry of Finance and Economic Planning also failed to consider the advice of the GRA on the tax-paying position of the oil companies which then raised problems of institutional coordination. Further, the Ministry's reliance on negotiating corporate taxes with oil companies based on moral suasion is not in tune with established international practice.
- vii. Efforts have been made by the GRA to build on the capacity of its officers particularly those in the Petroleum Tax Unit. However, enhancing technical capacity must remain a priority in the areas of tax assessment and cost auditing for the new upstream petroleum sub-sector.
- viii. Ghana is managing to sell its share of the production in a timely manner following liftings; payment for crude oil sales did not exceed a week from the date of lifting. In the case of the third lifting, cash payment had been received before the physical

³⁰ GNPC – Data to the Office of the President, 2011-2012.

lifting of crude oil. The Committee therefore did not find any revenue gains or losses resulting from the time lag between oil lifting and cash payment.

- ix. The final value of the Petroleum Holding Fund, according to provisions in the law for it to be net of equity financing and amounts to be ceded to the national oil company, came to GHS 354,240,632. This value conflicts with the provisions given in the First Schedule which accompanies Section 17 which sets out the methodology for the determination of the Benchmark Revenue. Under section 6, the Petroleum Holding Fund is described as gross receipts from all components of petroleum revenue listed in that section. This is further confirmed by the methodology to be used in establishing the Benchmark Revenue in Section 17 (First Schedule). Section 7, however, truncates the amount by setting aside the amounts designated to be paid to the national oil company thus creating some amount of confusion over the determination of the Benchmark Revenue.
- x. Considering the fact that the Jubilee field holds estimated recoverable reserves of about 800,000,000 barrels of crude oil, it is right to conclude that the finding costs of Jubilee reserves is about US\$6.92 per barrel making the Jubilee project a competitive one. The average worldwide finding cost for Financial Reporting System Companies (FRSC) is US\$18.31 per barrel of oil equivalent.³¹
- xi. The GNPC followed the provision of the Public Procurement Act in the procurement of a marketing contract for Ghana's share of crude oil. Vitol/Cirrus, the marketing contractors were selected through a competitive process. Vitol is also the marketer for Tullow Oil's share. The price realized by the GNPC for Ghana's crude oil from its marketing agreement was relatively higher than that of the other Jubilee partners. Ghana's realized average crude oil price of US\$113 per barrel was slightly higher than Tullow Oil's realized average price of US\$112 per barrel for the same period.
- xii. For the 2011 period under review, GNPC submitted its programme of activities to Parliament through the Minister for Energy in 2010 as part of the 2011 national budget process, as was the practice before the enactment of Act 815. However, after the passage of Act 815 it is reported that the GNPC's presentation of its programme of activities was done separately in accordance with the law during the presentation of the 2012 national budget. It is to be noted, however, that GNPC has not provided the Committee with a report on the use of funds (GHS 315,390,698) received to cover its activities in 2011.
- xiii. The GNPC did not pay dividends to the Government for 2011 because the corporation needed to plough back its profits to recover significant investments and operating costs associated with its participating interest.
- xiv. GNPC's share of Equity and Operating costs were fully disclosed to all relevant Government of Ghana agencies including the Ministry of Finance and Economic Planning, the Ministry of Energy, Bank of Ghana, Ghana Revenue Authority and the Securities and Exchange Commission. The Company's accumulated equity cost as at

³¹http://205.254.135.7/finance/performanceprofiles/about_companies.cfm
(date visited March 28th 2012)

31st December, 2011, was US\$165.8million out of which US\$134.48million had been settled from its share of Jubilee proceeds.³²

- xv. The selection of the priority sectors for spending the ABFA was guided by the Ghana Shared Growth and Development Agenda, a medium term development framework which puts greater emphasis on road infrastructure and agricultural modernization. The Minister therefore complied with sections 18(2) and 21(2) d of Act 815. However, this was not aligned to a long-term national development plan, as required under Act 815 because of the absence of such a long- term plan plan.
- xvi. Government allocated more than 70% of the Annual Budget Funding Amount for capital expenditure, an important requirement of Act 815. Petroleum revenues provided significant fiscal relief for Government to finance important development projects. Without petroleum revenues, there would have been a negative growth in roads investments and a worsening growth for agriculture investments.
- xvii. The Government of Ghana has signed a loan agreement with China Development totalling US\$3 billion which was collateralized against the Annual Budget Funding Amount.
- xviii. There was a compensating error in the transfers to the Ghana Heritage Fund and the Ghana Stabilization Fund deviating from the provisions prescribed in Act 815. The Ghana Heritage Fund was under-declared by GH¢9 million whilst the Ghana Stabilization Fund was over-declared by the same amount.
- xix. The Investment Advisory Committee and the Minister of Finance and Economic Planning have not provided any investment advice or Investment Guidelines respectively for the investment of Ghana Petroleum Funds. The Committee is of the view however, that since the Investment Advisory Committee was recently inaugurated and thus barely started its work, the types of investments made by the Bank were appropriate under the circumstances.
- xx. The Minister of Finance and Economic Planning is yet to sign the Operational Management Agreement with the Bank of Ghana for the operational management of the Ghana Petroleum Funds. Therefore the current role played by the Bank in the investment of the Ghana Petroleum Funds was done outside of such an agreement.

³² Information provided by the GNPC on 11th April, 2012.

APPENDIX I

QUESTIONNAIRE TO BANK OF GHANA

In accordance with the Petroleum Revenue Management Act, 2011 Act 815, the Bank of Ghana (BOG) is responsible for some Management and reporting obligations under the Act. Could you please provide the following information to the Public interest and accountability committee (PIAC) to enable them publish a semiannual report as in accordance with Act 815?

- I. Have you been consulted by the Minister of Finance and Economic Planning about the investment strategy or the management of the Ghana Petroleum Funds?
- II. If your answer to question I is yes, Can you please provide the committee with the decision taken.
- III. Has the Bank of Ghana (BOG) entered into any operation and management agreement with the Ministry of Finance about the operational management of the Ghana Petroleum Fund?
- IV. If your answer to question 3 is yes, can you please provide the PIAC with a copy of the agreement?
- V. Has the BOG presented any quarterly reports on the performance and activities of the Ghana Stabilization Fund (GSF) and the Ghana Heritage Fund (GHF)?
- VI. Has the BOG Publish any semi-annual reports on the GSF and the GHF in any of the National dailies?
- VII. What is the instrument of investment of the GPF?
- VIII. What is the amount of the investment yield to date?
- IX. Has the BOG any book of accounts and record on the Petroleum Holding Fund (PHF) and the GPF
- X. What is the balance outstanding in the name of the GSF and GHF?
- XI. Are there any Audit reports from the internal audit department of BOG?
- XII. Has the BOG submit to the Auditor General the financial statements and relevant documents on the petroleum funds for audit for 2011.
- XIII. In a range of 1-5 (1 being the lowest and 5 being the highest), how would you rate your reporting roles as required by Act 815?

APPENDIX 2

CRUDE OIL LIFTINGS IN 2011

Crude Oil Lift (Barrels)	Q1	%	Q2	%	Q3	%	Q4	%	Total	%
Total lift	4,627,701	100	5,970,237	100	6,966,962	100	6,886,552	100	24,451,452	100
Partners	3,632,442	78.5	4,975,546	83.3	5,976,192	85.8	5,937,083	86.2	20,521,263	83.9
GOG/ GNPC	995,259	21.5	994,691	16.7	990,770	14.2	949,469	13.8	3,930,189	16.1

APPENDIX 3

ALLOCATION OF PETROLEUM REVENUES IN 2011

Transfers	Actual (GH¢) 2011	Target (GH¢) 2011	Variance (GH¢)
Total Oil Revenues	666,187,085.6	1,250,000,000	583,812,914.4
Transfer to GNPC	315,390,698	327,337,152	11,946,455.0
Benchmark Revenue	354,240,632.0	923,446,572	569,205,940
Annual Budget Funding Amount	250,432,600.3	646,412,601	395,980,000.7
Ghana Petroleum Funds	103,808,031.7	277,033,972	173,225,627
Ghana Stabilization Fund	82,008,345.0	193,923,780	111,915,435
Ghana Heritage Fund	21,799,687.0	83,110,192	61,310,505

APPENDIX 4

SURFACE RENTAL FEES

Item	Phase of Operation	Surface Rentals Per Annum
A	Initial Exploration Period	Us \$30 per Sq. Km
B	First Extension Period	Us \$50 per Sq. Km
C	Second Extension Period	Us \$75 per Sq. Km
D	Development & Production Area	Us \$100 per Sq. Km


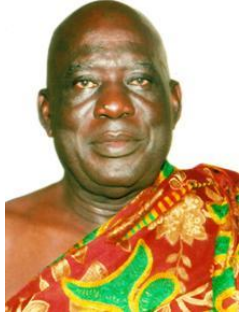










APPENDIX 5

GOG/GNPC REVENUE PRICE COMPARISON IN 2011

Quarter	Market price/bar	Revenue based on Market Price (US\$)	Reference price/bar	Revenue based on Reference Price (US\$)	Variance (US\$)	Variance (%)
Q1	112.804	112,269,196.2	112.604	112,070,144.4	199,051.8	0.2
Q2	116.276	115,658,690.7	115.476	114,862,937.9	795,752.8	0.7
Q3	110.67	109,648,515.9	110.37	109,351,284.9	297,231.0	0.3
Q4	112.55	106,862,736	111.15	105,533,479.4	1,329,257.6	1.3
Total		444,439,138.8		441,817,846.6	2,621,292.2	0.59
Less Market Cost		314,415.12		314,415.12	0	0
GOG/GNPC Gross Revenues		444,124,723.7		441,503,431.5	2,621,292.2	0.59

Source: Ministry of Energy and Economic Planning and PIAC in-house computations

MEMBERS OF THE PUBLIC INTEREST AND ACCOUNTABILITY COMMITTEE

 <p>Major Daniel Sowa Ablorh-Quarcoo (Chairman) Institute of Chartered Accountants</p>	 <p>Osabarimba Kwesi Atta II Oguahen (Vice-Chairman) National House of Chiefs</p>	 <p>Mrs Angela Peasah Christian Groups</p>
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For more information about the Public Interest and
Accountability Committee, please visit our website.

www.piacghana.org

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