



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

REPORT ON MANAGEMENT OF PETROLEUM REVENUES FOR YEAR 2012

ANNUAL REPORT

ABBREVIATIONS

ABFA	<i>Annual Budget Funding Amount</i>
AG	<i>The Auditor General's Department</i>
BOG	<i>Bank of Ghana</i>
BOPD	<i>Barrels of Oil Per Day</i>
BR	<i>Benchmark Revenue</i>
CDB	<i>China Development Bank</i>
CGT	<i>Capital Gains Tax</i>
COLA	<i>Crude Oil Lifting Agreement</i>
DWT	<i>Deep Water Tano</i>
GHF	<i>Ghana Heritage Fund</i>
GNGC	<i>Ghana National Gas Company</i>
GNPC	<i>Ghana National Petroleum Company</i>
GOG	<i>Government of Ghana</i>
GPF	<i>Ghana Petroleum Funds</i>
GRA	<i>Ghana Revenue Authority</i>
GSF	<i>Ghana Stabilisation Fund</i>
IAC	<i>Investment Advisory Committee</i>
LPG	<i>Liquefied Petroleum Gas</i>
MOF	<i>Ministry of Finance</i>
OHIP	<i>Original Hydrocarbon-in-Place</i>
PIAC	<i>Public Interest and Accountability Committee</i>
POD	<i>Plan of Development</i>
PRMA	<i>Petroleum Revenue Management Act</i>
SOPCL	<i>Saltpond Offshore Producing Company Limited</i>
TEN	<i>Tweneboa-Enyenra-Ntomme</i>
TUC	<i>Trades Union Congress</i>
UUOA	<i>Unitisation and Unit Operating Agreement</i>
WCTP	<i>West Cape Three Points</i>

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FOREWORD

As required by the Petroleum Revenue Management Act, 2011 (Act 815), the law establishing the Public Interest and Accountability Committee (PIAC), this report is being published to cover the management of petroleum revenue for the year 2012. The publication of the report has been delayed many months after the date specified in the law due to lack of resources.

Even though the Ministry of Finance has finally made an allocation in the 2013 budget to cater for the needs of the Committee, the actual release of funds has not yet taken place, thus, rendering the work of the Committee difficult and contributing to a late release of this report. It is our hope that a lasting solution would be found to this problem so that the PIAC can function much better for the good of the people of Ghana.

This report also comes at a time when transparency and accountability issues have taken centre-stage again in public discourse. The PIAC therefore expects that the findings and recommendations in this report will be given the necessary attention by the relevant institutions so that any anomalies and gaps in the petroleum revenue management system would be quickly corrected and not be repeated in the future.

The PIAC also wishes to reiterate our call on the Parliament of Ghana to amend certain portions of the PRMA (Act 815) which have been found to lack the clarity required to give effect to the underlying national policy on petroleum revenue management.

Once again, we wish to acknowledge the immense contribution of Revenue Watch Institute, Africa Regional Office, for their continuous support without which the PIAC would have found it difficult to survive.

We also wish to thank GIZ for their sponsorship of some of our programmes and activities including the publication of this report, the World Bank for the tremendous encouragement, Oxfam USA and the TUC of Ghana through whom some support was provided.

EXECUTIVE SUMMARY

The Public Interest and Accountability Committee is a statutory committee established under Section 56 of the Petroleum Revenue Management Act 2011 (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 required, under the same law, to issue a report every six months to keep track of how petroleum revenues received during such period are being used and accounted for by the government and various state agencies which have responsibilities to manage the resource.

This is the third report of the Committee since its inauguration in September 2011, and it contains findings and recommendations relating to management of petroleum revenues during the year 2012.

Key Findings

I. Revenue from stock spill-over

No action has yet been taken to incorporate revenues from stock spillovers arising from production from one year to another, into the structure of accounting for all petroleum receipts in estimating the Benchmark Revenue nor any special report presented to explain volume differences between production and lifting as indicated in the Committee's two previous reports.

II. Accounting for Surface Rentals

Payments of Surface Rentals are now being properly accounted for as part of petroleum receipts and are incorporated into the Benchmark Revenue in accordance with the law.

III. Redetermination and Ghana's share of oil

During the period, there was a redetermination of the Original Hydrocarbon-in-Place (OHIP) in the Jubilee field in accordance with the Partners' Unitisation and Unit Operating Agreement (UUOA) leading to some slight changes in the participation ratios and consequently the oil entitlement of the Jubilee Partners. Ghana's share after redetermination is now 17.9588% (inclusive of Royalties) compared to 18.0625% in 2011.

IV. Petroleum Cost

There was an increase in the average production costs of the Jubilee partners from US\$13.99 per barrel to US\$16.11 per barrel as a result of having to correct some technical problems encountered in 2011 and the early part of 2012. These corrections included acid stimulations conducted on the fields of the Jubilee Phase I.

V. Crude Oil Lifting

Total crude oil lifted from the Jubilee oilfields was 26,430,934 barrels in 2012 exceeding the total production volume of 26,351,278 barrels by 79,656 barrels indicating a spillover from 2011. The Ghana Group lifted 4,931,034 barrels of crude oil inclusive of the 5% royalty reflecting a total share of 18.66% in the new sharing ratio after redetermination, which is slightly more than 17.9588% which is Ghana's entitlement in year 2012.

VI. Petroleum Income Tax 2012

For the second consecutive year, no corporate taxes were received because the companies were not in a tax paying position as cautioned by the PIAC in the 2012 Annual Report. The inclusion of corporate taxes in expected petroleum receipts in 2012(just as in 2011) has had the effect of distorting the Benchmark Revenue determination and subsequently the distribution of actual revenues during the period.

VII. Crude Oil Pricing

Though the Ghana Group gained about US\$20.18 per barrel on its projected crude oil price of US\$90 per barrel, the 22.42% deviation from average price realized is too wide and calls to question the plausibility of the assumptions behind the price projections used in the budget for the year 2012. However, Ghana's actual sale price was comparable to that realized by the other Jubilee partners.

VIII. Total Revenue

Total actual petroleum revenue received in 2012 was **GHS979,324** compared to the projected revenue of **GHS1,239,820** representing a 21% shortfall of revenue.

IX. Petroleum Revenue Distribution

The actual Benchmark Revenue in the year under review was 36% less than projected.

The Benchmark Revenue has been overestimated since 2011 and this has affected both the Annual Budget Funding Amount (ABFA) and the Ghana Petroleum Funds negatively since they derive their allocation from the Benchmark Revenue. The GNPC received **GHS54.99** million more than was approved by Parliament and even though the excess money has been accounted for, the occurrence has had the effect of drastically reducing the amount of money that should have been lodged in the GPFs as required by Law.

X. Utilization of ABFA

The Ministry of Finance does not seem to have implemented the plan of expenditure from Petroleum Revenue approved by Parliament in the 2012 Budget, especially , as no details have so far been provided for the expenditure in the Selected four priority areas reported to Parliament. That report contained an expenditure item in a total sum of **GHS 111,959,738** described as "Capacity Building" among others, which needs to be explained.

Furthermore, the report to Parliament provided by the Ministry of Finance appears to differ in content from details in Table 13 provided in this report. This is yet to be explained by the Ministry.

The requirement for 70% of the ABFA to be spent on public investment under Section 21 (4) was also not adhered to.

XI. Transfers into Ghana Petroleum Funds

In 2012, actual transfers to the Ghana Petroleum Funds fell short of target by 82%. This is due to the interpretation of Section 23b of Act 815 which requires only excess revenue collection over quarterly ABFA to be transferred to the Ghana Petroleum Funds. This interpretation of the law was however different from what was applied in the 2011 allocations. In the view of the Committee the different interpretation of the law creates room for abuse which must not be encouraged.

XII. Investment of the Ghana Petroleum Funds

The investment of the Ghana Petroleum Funds has not as yet yielded high returns, which is of a great concern to the PIAC since a continuation of this trend is likely to slow the growth of the Funds, especially the GHF.

XIII. Projected Petroleum Revenue 2013

If peak production is achieved in 2013 as planned and expected corporate taxes are collected, petroleum receipts are likely to be higher than projected for the first time as end of year crude oil prices are not expected to fall below US\$95 per barrel.

Main Recommendations

1. Revenue from Stock Spillover

The Committee reiterates its recommendation (ii) in the 2011 Annual Report requesting the Ministry of Finance to report on the revenue overspill from 2011 which could probably be the outcome of petroleum produced at the onset of operations in 2010.

The Ministry of Finance must also take into consideration the movement of stocks at the beginning and end of every production year to enhance the planning process and improve the quarterly projections of petroleum receipts rather than the current method by which the whole year's revenue is simply divided into four equal parts for the purpose of allocation of petroleum revenue.

2. Surface Rental Payments

The Ministry of Energy and Petroleum and/or the Petroleum Commission must ensure that invoices on surface rentals are raised and paid by all IOCs operating in Ghana in a timely manner as stipulated by law.

3. Petroleum Income Tax

The inaccurate estimation of petroleum income taxes and for that matter any other constituents of petroleum revenue could give rise to distortions in the determination of the Benchmark Revenue and thereby affect its distribution. The MOF must therefore endeavour to improve the accuracy and reliability of its forecasting.

4. Crude Oil Pricing

Sections 9, 10 and 11 of Schedule I of Act 815 stipulate that assumptions upon which calculations are made in the estimation of Benchmark Revenue are to be clearly stated and any later changes pointed out. These assumptions are also required to be prudent, reflect international best practice and be based on internationally recognized standards. The Ministry of Finance must therefore ensure compliance with these requirements and disclose its assumptions in their report.

5. Petroleum Revenue Distribution

In the distribution of petroleum revenue, the Ministry of Finance must be guided by the policy objectives underlying the PRMA of setting aside part of annual petroleum revenues into a fund for future use. The current distribution mechanism, based on Section 7 of the Act, appears to leave too much funds at the disposal of the National Oil Company at the expense of the ABFA and GPFs.

This is a lingering problem as it appeared as Finding v of the report of the PIAC for year 2011. If necessary, judicial interpretation of the relevant provisions of the Act should be sought to provide the basis for firm actions in future or outright replacement of those sections of the Act may be needed to remedy the situation.

6. Utilization of ABFA

The PIAC wishes to reiterate its recommendation in the 2012 Semi Annual Report that the “Ministry of Finance and Economic Planning must consider utilizing a dedicated account to receive the Annual Budget Funding Amount from the Petroleum Holding Fund at the Bank of Ghana. This will ensure that allocations from this account can be tracked to give meaning to transparency and accountability.”

The Ministry of Finance must take immediate steps to publish a more detailed report on how the ABFA approved by Parliament was disbursed and give more details of expenditure on Loan Repayment and Capacity Building in the report.

We also recommend that the Ministry of Finance must comply with the provisions of Section 21 (4) and (5) in the spending of petroleum revenues designated as the ABFA.

7. Ghana Petroleum Funds

The PIAC is concerned about the impact of the interpretation of Section 23b of the Act on the GPFs and has therefore offered in the Annex of this report a legal opinion on the relevant sections of Act 815 that deal with how funds are to be transferred into the Ghana Petroleum Funds. The Committee recommends that Parliament should take a critical look at this exposition and take steps to amend this section of the Act for better clarity that will enhance implementation to ensure that the GPFs are funded regularly.

8. Investment of the Ghana Petroleum Funds

The Government must release the Policy and Guidelines to assist the Fund Managers to better manage these funds as required by the PRMA 2011, (Act 815).

Other Recommendations:

9. Enactment of Regulations

After three years of the coming into force of Act 815, the regulations that will help with the implementation of the law are long overdue. We therefore call for expedited action to be taken to complete the drafting of the regulations for the approval of Parliament.

10. Review of PRMA 2011

Some aspects of the Act, as detailed in the legal opinion attached as Annex, that have proved challenging in implementation should be reviewed and corrective measures taken to get those sections duly amended by the Parliament of Ghana.

11. Legislation on funding for the PIAC

We recommend that a section of the Act must be introduced to cater for the funding of the PIAC and the Petroleum Commission to enable them carry out their respective mandate as was done for the GNPC and the IAC.

SECTION I

BACKGROUND

1.1. Introduction

The Public Interest and Accountability Committee (PIAC) is mandated by the Petroleum Revenue Management Act 2011 (Act 815) to issue semi-annual and annual reports on the management of Ghana's petroleum revenues. This report is the second Annual Report of the Committee. The areas covered in this report include; an overview of the implementation status of the previous PIAC findings and recommendations; analysis of crude oil production and lifting for the year 2012; verification of the accuracy of petroleum revenues; assessment of transfers to the Annual Budget and the Ghana Petroleum Funds in accordance with the Act; review of the uses to which petroleum revenue was applied and assessment of the performance of the petroleum funds invested during the year.

1.2. Scope and Methodology

In preparing the report, the Committee obtained information from relevant institutions in the petroleum sector including the Ministry of Finance (MOF), the Ghana National Petroleum Corporation (GNPC), the Bank of Ghana (BOG), the Ghana Revenue Authority (GRA) and some partners of the Jubilee field. The information gathered was on crude oil production, lifting by the Ghana Group, revenues generated from the export of Ghana's share of crude oil; the investments made by GNPC from its allocation of petroleum revenues; the utilization of the Government Annual Budget Funding Amount (ABFA) by MOF and the management of the Ghana Petroleum Funds. Desk study analysis was used to evaluate the information gathered focusing on the following:

- the accuracy of Ghana's crude oil lifting compared to the fiscal terms provided in the Petroleum Agreements
- the accuracy of petroleum revenues relative to crude oil lifted and sales price per barrel of crude oil
- the management of the Ghana Petroleum Funds
- the performance of the institutions under the Petroleum Revenue Management Act 2011 (Act 815)
- areas of expenditure to which the ABFA was applied.

The report also incorporates public views collated by the PIAC through participatory Regional Forums held in Takoradi and Kumasi in accordance with the Committee's mandate under Act 815, which are intended to provide "a platform for public debate on spending prospects of petroleum revenues in line with development priorities".

Furthermore, references were made to previous reports issued by the PIAC to ascertain status of implementation of some of the key recommendations in those reports.

We interviewed senior officers of the relevant organizations and institutions to clarify some of the issues raised in the report after the desk study.

We then sent out the final draft of the report to these organizations and institutions to validate the accuracy of the information in it.

1.3. Objectives of PIAC

The objectives for which the PIAC was set up are well defined in the Petroleum Revenue Management Act 2011 (Act 815) as:

- d. Monitoring and evaluating compliance with the Act by the Government and other relevant institutions in the management and use of petroleum revenues.
- e. Providing a platform for public debate on spending prospects of petroleum revenues in line with development priorities.
- f. Providing an independent assessment on the management and use of revenues.
- g. The PIAC is required by section 56 (a) of Act 815 to publish semi and annual reports

In the last two years, the PIAC has carried out a number of activities in pursuit of these objectives in spite of its resource constraints. These activities include:

- Issuing of the 2011 Annual Report on the management of petroleum revenues
- Issuing of the 2012 Semi Annual Report on the management of petroleum revenues.
- Holding of two Regional Forums in Takoradi and Kumasi for public views on spending prospects for petroleum revenues

This report is yet another demonstration of the Committee's determination to ensure sound and transparent management of Ghana's petroleum revenues in fulfillment of the objectives set out by Act 815.

SECTION 2

UPDATE FROM THE PREVIOUS REPORTS

As indicated above, the PIAC has issued two reports covering the financial year 2011 and the first half of 2012. This section recaptures some of the key findings of the two previous reports and evaluates the status of actions taken or otherwise on the recommendations.

Finding 1: Oil Production levels

Monthly production in 2012 declined from 2.11 million barrels in January to 1.77 million barrels in June. The average daily production during the period was 62,985 barrels of oil per day (bopd). This fell short of the 90,000 bopd used in the estimation of the Benchmark Revenue for the year 2012.

Observation

During the second half of the year, the average daily production increased by 29.85% to 96,628.52 bopd in December 2012. This was as a result of remedial actions taken by the Jubilee partners to correct some of the technical challenges which affected production in the earlier part of the year.

Finding 2: Ghana's Lifting Entitlement

The share of crude oil production lifted by the Ghana Group from the Jubilee field was consistent with the sharing ratio of the fiscal regime governing the Jubilee operations. The proportion of crude oil lifted in the first half of 2012 was equivalent to 25.45% of production. This is about 7.5% higher than Ghana's share of petroleum produced during the period because it included the carryover stock of 649,138 barrels from 2011 that spilled over into the 2012 lifting. (See Key Finding iii. of the PIAC Annual Report for 2011). In the first half of 2012, a total quantity of 2,989,367 barrels was exported by the Ghana Group yielding a net value of US\$326,620,009.43.

Observation

In our recommendation II of the 2011 annual report, we emphasized that “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 Crude Oil Lifting Agreement (COLA)”.

To illustrate the point, the Committee's analysis reveals that there is a difference in the quantities reported by the Jubilee Field Operating Manager (Tullow Oil) and that of MOF in the latter's report to Parliament concerning Crude Oil liftings in 2012.

Whereas the Tullow report indicates that the Ghana Group's share of total production in 2012 was 4,724,833 barrels, MOF reported a total lifting of 4,931,034 barrels suggesting that the lifting included a previous period stock of 206,201 barrels. (see finding III of PIAC annual report for 2011 and key finding II of PIAC semi-annual report for 2012)

Indeed, there has been another lifting of 995,550 barrels on 4th January 2013 obviously also from stock spillover from 2012.

Finding 3: Corporate Taxes and Over Estimation of Benchmark Revenue

“The petroleum revenues received so far in the first half of the year indicate that expectations in respect of royalties and carried and participating interests have been reasonably met relative to their original forecasts. A little over 60% of the revenue targets have already been collected. It is quite likely that the revenue targets in respect of royalties and carried and participating interests will therefore be met at the current level of oil production. However, it is not likely that the year-end target of **GHS1,239,820** million will be met if corporate income taxes are not received during the period.” (see key Finding V of the PIAC 2012 semi-annual report)

Observation

The actual out turn of Petroleum revenues in 2012 confirms the PIAC’s finding V in the June 2012 report. The actual receipt for the year 2012 was **GHS979,324**; million this was **GHS260,496** lower than the projected receipt of **GHS1,239,820** million. The main cause of the deficit was that no corporate tax was paid by any of the companies in the year 2012 though an assessment was made by GRA on Tullow’s 4th Quarter 2012 returns. This was paid in January 2013.

The deficit could have been worse but for the oil price gain of about US\$20.18 per barrel on the projected US\$90 per barrel. This occurrence also affected the determination of the Benchmark Revenue and by extension, the allocation into the Ghana Petroleum Funds. (See finding X of the PIAC 2011 annual report and Key finding V of 2012 semi-annual report)

Finding 4: Payment of Surface Rentals

Not all the companies engaged in exploration and production of petroleum were reported to have paid Surface Rentals for the period. The Committee did not find evidence that the following companies had paid surface rentals into the Petroleum Holding Fund: ENI Ghana, Oranto Petroleum International Limited, and Afren Energy Ghana Ltd.

Observation

As at the end of 2012, Eni is reported to have paid surface rentals totaling US\$118,888.53. However, there is no record of payment from Afren and others in the period under review. The Bank of Ghana also indicated an indebtedness of US \$22,622.95 in respect of Oranto’s surface rentals.

2.1. Developments in the Oil and Gas Industry

As at the end of December 2012, the Jubilee Oil Field had produced about 51,728,261 barrels of oil since it began operations in December 2010. In 2012 significant efforts were made by the Jubilee partners to increase the productivity of the wells following technical challenges which forced a decline in production. As a result of the start-up of two Jubilee Phase 1A wells and the successful completion of acid stimulations, production levels were put back on course towards the planned peak of 120,000 barrels of oil per day. By the end of 2012, production level had reached 110,000 barrels per day, a significant development towards ramping up

production. The acid stimulation was considered the best and most cost-effective solution to the technical problems relating to well productivity as it was done at a cost of US \$160 million gross.¹

The Jubilee phase 1A which consists of eight new wells comprising five producers and three water injectors received Government approval in January 2012. The Jubilee partners also completed appraisal on the Tweneboa-Enyenra-Ntomme (TEN) Cluster Development and submitted its Plan of Development (PoD) which was approved by GoG in May 2013. Implementation is expected to take place from 2013 to 2016 at an estimated cost of US\$4.5billion



Figure 1: A map showing the Jubilee Fields and the TEN Cluster Fields

2.2. Ghana National Gas Company Ltd.

The Committee received a report of activities from the Ghana National Gas Company (GNGC) and followed it up with a visit to their project site in the Western Region in March 2013 to ascertain the progress made so far.

The objectives of the project include the following:

1. to lay a 12-inch x 45km shallow water gas export pipeline in order to link the deep water pipeline to Atuabo;
2. to install a Joule-Thomson (J-T) gas processing plant in Atuabo designed to process 150m standard cubic feet of raw natural gas a day;
3. to lay a 20-inch x 111 km onshore lean gas trunk pipeline from the processing plant at Atuabo to the Aboadze Thermal Plant;
4. to lay a 20-inch x 75 km onshore lean gas lateral pipeline from Esiam to Prestea;

¹ Tullow Oil Plc, Trading statement and operational update, published 11 January 2013.

5. ultimately, the plant is intended to produce natural gas liquids for delivery of LPG to the local and export markets

The project is estimated to cost US\$1 billion and is being funded 85% by the China Development Bank (CDB) and 15% by the Government of Ghana.

The Committee observed the following during the visit:

1. the 45km Shallow Water Offshore Pipeline was fully laid and tied-in to Deep Water Pipeline
2. filling and compacting of the foundation for the Gas Processing Plant (GPP) had been completed and Concrete Pilling was in progress
3. welding of Onshore 111km pipeline was about 98% complete
4. trenching, lowering and backfilling of 111km Onshore Pipeline was about 40% complete.

Over all, the entire project was supposed to be about 60% complete and the estimated project completion time was the last quarter of 2013.

In view of some challenges the GNGC faces, especially relating to funding, the project is not likely to be delivered by the stipulated time.

According to the GNGC, the Government of Ghana (GoG) has so far released **GHS40** million as start-up capital even though the Company requires about **GHS65** million in order to successfully pursue its objectives.





A gas pipeline being laid at the Ghana National Gas project site

SECTION 3

CRUDE OIL PRODUCTION AND LIFTING FROM THE JUBILEE FIELD

3.1. Redetermination of Hydrocarbons in place (OHIP)/Carried and Participating Interest

As a result of a redetermination of the Jubilee Field's Original Hydrocarbon in Place (OHIP) across the Deep Water Tano and West Cape Three Point Blocks, Ghana's share of petroleum declined slightly under the Unit Operating Agreement from 13.75% to 13.64%. Redetermination is a process by which owners in a unit agreement commit that at one or more dates in the future, they will revisit the unit interest due to information received from new wells or production data, and where appropriate, adjust the Tract Participations to reflect the proportion of the reservoir and associated hydrocarbons that underlie their participation arising from the new data.²

Pursuant to the terms of the Jubilee Field Unitization and Unit Operating Agreement (UUOA), the percentage share of petroleum of the Jubilee partners is subject to a process of redetermination. Any party to the Jubilee UUOA with more than a 10% Jubilee Unit Interest may call for a second redetermination after December 1, 2013. The redetermination of the blocks led to the distribution (tract participation) of the OHIP of 50% each from the two Blocks to be realigned to tract participation within the unit area in a ratio of 45.6334% for the Deep Water Tano Block (DWT) to 54.3666% for the West Cape Three Point (WCTP) Block instead of the original 50% each of the two blocks. This exercise has affected Ghana's Participating Interest by a small margin reducing the country's entitlement to oil under Carried and Participating Interest to 13.640% instead of the original 13.75% as shown in Table 1. This took effect from 1st December, 2011.

Table 1. Share of Petroleum by Jubilee Partners (%)

Company	Share before Redetermination	Company	Share after Redetermination
GNPC	13.7500%	GNPC	13.64084%
Tullow	36.4547%	Tullow	35.47954%
Kosmos	23.4913%	Kosmos	24.07710%
Anadarko	23.4913%	Anadarko	24.07710%
Sabre	2.8127%	PetroSA ³	2.72544%
Total	100%		100%

Source: GNPC

The outcome of the redetermination was that, the interest holdings of the partners in the various tracts have changed. The new tract participation directly affects the share of oil to be lifted by each partner during the period. As a result of the redetermination, the Ghana Group oil entitlement for 2012 is as indicated in the table below:

Table 2 Ghana Group Oil Entitlement

² Memery Bank (2010) Unitization and Redetermination: Winning the end Game.

³ PetroSA acquired the interest of Sabre Oil and Gas Limited.

Revenue Type	Entitlement		Total Entitlement
Royalty	5% of gross production		5%
Carried and Participating Interest	Carried Interest	10% of net production	12.9588%
	Participating Interest	3.64084% of net production	
	Total:	13.64084% of net production (13.64084 * .95)	
Ghana Group entitlement (%)			17.9588%

Finding

Ghana's total share in 2012 is now 17.9588% inclusive of Royalties as compared to 18.0625% in 2011.

3.2. Jubilee Crude Oil Production

Total production for the year was 26,351,278 barrels. The month by month production volumes are indicated in Table 3 below:

Table 3 Jubilee Crude Oil Production

Month in 2012	Daily Average Production (BBLS)	Production Days	Quantity Produced (BBLS)
January	68,258	31	2,115,984
February	65,702	29	1,905,366
March	64,838	31	2,009,982
April	60,230	30	1,806,887
May	60,007	31	1,860,213
June	58,878	30	1,766,348
July	63,858	31	1,979,585
August	80,253	31	2,487,858
September	83,047	30	2,491,398
October	81,295	31	2,520,131
November	80,401	30	2,412,042
December	96,629	31	2,995,484
Total			26,351,278

Source: GNPC

Table 3 above shows that production fell progressively until it reached its lowest level in June when, some wells had been temporarily shut down for acid stimulation. The acid stimulation resulted in the steady rise in average production from 58,878 in June to 96,629 bopd in December. The average daily production for the year was 71, 998 bopd. However, this figure is lower than the figure (90, 000 bopd) used in the estimation of the Benchmark Revenue in the 2012 Budget Estimates.

3.3. Capital and Operational Costs

The Jubilee partners had a budget for both development and operational expenditure for the year 2012 as indicated in Table 4 below:

Table 4. 2012 Jubilee Budget – Revision Schedule

Development

Firm	2012 Budget 21/03/12 Rev 4 US \$ '000	Revised 31/12/2012	Final Costs 2012(Actuals)
Development Phase I	284,009	(81,601)	41,468**
Development phase Ia	545,332	(85,012)	675,589
Further Infill Drilling	0	708	708
FPSO Purchase	750,997	0	750,997
Legal Costs	3,500	(23)	3,477
Parent Company overhead	2,396	(412)	1,984
Sub-total	1,586,234	(166,340)	1,474,223

Production

Operating cost	317,599	(134,899)	343,640
Parent company overhead	500	0	500
Sub-total	318,099	(134,899)	344,140
Total Dev & Prod	1,904,333	(301,239)	1,818,363

** excludes transactions relating to prior years reallocation mob and demob costs.

Source: GNPC

These expenditures included those undertaken to correct some of the technical problems that affected production during the year. Indications are that the actual expenditures incurred during the period exceeded the budget by about US\$44.4 million. Therefore average production cost reported by the Jubilee field operator was US\$16.11 per barrel for year 2012 as compared with 13.99 per barrel in 2011.

Finding

There was an increase in the average oil and gas production costs from US\$13.99 per barrel 2011 to US\$16.11 per barrel as a result of acid stimulations conducted on the fields of the Jubilee Phase I.

3.4. Saltpond Offshore Petroleum Production

The Saltpond Offshore Producing Company Ltd (SOPCL) produced 91,594 barrels in the year 2012. High cost of production and other operational costs continue to make this venture not as profitable as it could be. The company paid royalties of US\$104,193 in the year 2012 to Government. However, the Ghana Revenue Authority and the Bank of Ghana reported having received additional sums in respect of SOPCL royalties paid by Omikrom Energy Limited and Lushan International as partners in SOPCL.

3.5. Ghana Group Lifting

The Ghana Group lifted five parcels of crude oil as indicated in Table 5 below with their relative values.

Table 5. Crude Oil Lifting on Jubilee License in 2012

Crude Oil Lift	Q1	%	Q2	%	Q3	%	Q4	%	Total	%
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Total Lift	5,871,464	100	5,873,709	100	6,816,863	100	7,868,898	100	26,430,934	100
Partners	4,874,980	83.03	3,880,826	66.07	5,896,842	86.11	6,874,252	87.36	21,499,900	81.34
GoG/ GNPC	996,484	16.97	1,992,883	33.93	947,021	13.89	994,646	12.64	4,931,034	18.66

From Table 5 above, Ghana lifted 4,931,034 barrels of crude oil in 2012 which is 18.66% of the total lifting for the year. This slightly exceeds Ghana's entitlement of 17.9588 (see Table 2) according to the post – redetermination ratios. Compared to the 2011 lifting of 3,950,189, the 2012 lifting of 4,931,034 translates to a 24.8% (980,845 in absolute terms) increase in annual lifting by the Ghana Group.

Finding

The Ghana Group lifted 4,931,034 barrels of crude oil inclusive of the 5% royalty reflecting a total share of 18.66% in the new sharing ratio after redetermination, slightly more than the 17.9588%.

3.6. Revenue Spillover of 2012 Crude Oil Stock

It has been observed that in the past three (3) years, there have been revenue spillovers from stock accumulated from a previous period of production which becomes available for lifting especially by the Ghana Group in January of the following year. This happened in January 2012 and 2013.

In the 2011 Annual Report, the PIAC reported that such a spillover accrued from 649,138 barrels of accumulated stock. For the year 2012, total production available for lifting by Ghana Group as reported by the Jubilee operator (Tullow) was 4,724,833 barrels. However, the Ghana group lifting amounted to 4,931,034 barrels according to the reports of both the GNPC and the MOF. Clearly therefore, the difference of 206,201 barrels could only have come from accumulated stock.

On 4th January, 2013, Ghana lifted a parcel of 995,550 of crude oil which cannot be attributed to the three days of production in January 2013.

Finding

Total crude oil lifting of 26,430,934 barrels for 2012 exceeded the total production volume of 26,351,278 barrels for the year by 79,656 barrels indicating a spillover from 2011.

SECTION 4

ANALYSIS OF ACTUAL PETROLEUM REVENUE IN 2012

4.1. Petroleum Receipts versus Revenue Projection

Petroleum revenue for the year 2012 was projected at **GHS1,239,820** million in the 2012 Budget Statement. The actual outturn was however **GHS979,324** million.

In Table 6, The Committee presents a comparison of the budgeted amount with the actual receipt showing the relative deviations

Table 6. Petroleum Receipts 2012 (GHS million)

Revenue Source	Target	Actual	Deviation	Deviation %)
Royalties – Jubilee	236.87	272.37	35.5	14.99%
Royalties – SOPCL ⁴	-	0.197	0.197	100%
Carried and Participating Interests	618.84	705.91	87.07	14.1%
Corporate Taxes	384.11	-	(384.11) ⁵	
Surface Rentals		0.847	0.847	100%
Total Receipts	1,239.82	979.324	(184.04)	(14.8%)

Source: MOF, Budget Statement and Economic Policy 2012 and 2013

Actual revenue for royalties and carried and participating interests exceeded their targets. Royalties from the Saltpond Offshore Producing Company Ltd (SOPCL) and surface rentals which were not included in the projections were however received in the year under review. The main component of petroleum revenue that fell short of target in 2012 was corporate taxes.

Finding

Total actual petroleum revenue received in 2012 was **GHS979,324** million compared to the **GHS1,239,820** million estimated in the budget leading to a difference deficit of **GHS184** million representing 14.8%.

4.2. Analysis of revenue components

i. Royalties

Total royalties reported by the Ministry of Finance for the year was **GHS272.563** million. This was derived from royalties from the Jubilee Oil Fields and SOPCL. However, the Ghana Revenue Authority and the Bank of Ghana reported having received additional sums in respect of SOPCL royalties paid by Omikrom Energy Limited and Lushan International as partners in SOPCL as indicated in Table 7 below. In effect therefore, royalties received from SOPCL totaled **GHS0.636** million.

⁴ Refers to Saltpond Offshore Producing Company

⁵ The Ghana Revenue Authority has reported that a Corporate Tax of US\$40,210,099.56 was paid by Tullow Ghana for 2012 in January 2013. Thus the payment was made before the 2013 Budget Statement was presented to Parliament, and yet the Budget failed to incorporate this amount in the Petroleum Receipts of 2012.

Table 7. Royalties

Company	GHS Mil
Jubilee	272.366
SOPCL (including Omikrom Energy limited Lushan International)	.636
Total	273.002

Source: GRA; BOG

ii. Carried and participating interest

Carried and participating interest of the State for the year was higher than target by **GHS87** million. This could be attributed to the higher price achieved as well as the high Cedi to Dollar exchange rate.

iii. Surface Rentals

Surface rental for the year reported by the MOF was **GHS0.847** million. However, records from the Ghana Revenue Authority showed that the rentals for the year amounted to **GHS1.078** million, **GHS0.231** million more than the amount reported by the MOF to Parliament.

Table 8. Surface Rentals

Company	(US\$)
Tullow Ghana Limited	63,866.95
Kosmos Energy Ghana	35,438.56
Vanco Ghana limited	76,355.59
Vanco Ghana limited	78,043.01
ENI Ghana Exploration and Production	66,841.53
ENI Ghana Exploration and Production	52,047.00
Amerada Hess Ghana limited	150,750.00
Saltpond Offshore Producing Company	3,025.00
TAP Oil (Ghana) Limited	43,770.49
Total (US\$)	570,138.13
Total (GHS)⁶	1,077,561.07

Source:

GRA

iv. Petroleum Income Tax

The Ghana Revenue Authority assessed Tullow Oil Ghana for petroleum income tax in the 4th Quarter of 2012 on a taxable income of US\$114,885,998. The tax liability of US\$40,210,099.56 was discharged in January 2013 and it is therefore being accounted for by the GRA as part of 2013 taxes collected.

The GRA was unable to assess and collect any Capital Gains Tax (CGT) on the assignment of interest transactions that took place during the year between EO Group and Tullow Oil as well as Sabre Oil and Gas and PetroSA. This was because current tax laws affecting operations in the upstream petroleum sector contain no provisions for CGT. However, the respective Petroleum Agreements (PA) signed between the

⁶ This is based on an exchange rate of GHC1.89.

GoG and the various oil companies prohibit the use of the provisions of any other law which is inconsistent with the Petroleum Income Tax Law. Therefore, GRA could not use the provisions of Internal Revenue Act 2000 (Act 592) to assess any CGT on the beneficiaries of the transfers.

Finding

For the second consecutive year, no corporate taxes were received because the companies were not in a tax paying position as cautioned by the PIAC in the 2012 Annual Report. The inclusion of corporate taxes in expected petroleum receipts in 2012 (just as in 2011) has had the effect of distorting the Benchmark Revenue determination and subsequently the distribution of actual revenues during the period.

4.3. Crude oil Pricing

Quarterly crude oil prices for Ghana's share of oil were relatively stable over the year. The average realized price of US\$110.18 per barrel exceeded the projected price of US\$90 per barrel by US\$20.18.

Table 9. Comparative Price Performance among Jubilee Partners

Quarter	Unit	Average
Ghana Selling Price ⁷	US\$	110.18
Kosmos Energy ⁸	US\$	113.12
Tullow Ghana ⁹	US\$	111.8

Source: MOF, Tullow Ghana, Kosmos Energy

Finding

Though the Ghana Group gained about US\$20.18 per barrel on its projected crude oil price of US\$90 per barrel, the 22.42% deviation from average price realized is too wide and calls to question the plausibility of the assumptions behind the price projections used in the budget for the year 2012. However, Ghana's actual sale price was comparable to that realized by the other Jubilee partners.

⁷ Ministry of Finance Report on Petroleum Revenue Distribution (Various, 2012)

⁸ Kosmos Energy Ltd. United States Securities and Exchange Commission Form 10-K, for the Fiscal Year Ended December 31, 2012

⁹ The US\$111.8 was the realized average pre-hedge price per barrel of oil. The average realized post-hedge price was US\$108 per barrel of oil (Source: Tullow Oil Plc, Trading statement and operational update, Published 11 January 2013)

SECTION 5

ALLOCATION OF PETROLEUM REVENUES FOR YEAR 2012

5.1. Petroleum Revenue Distribution

In line with the Petroleum Revenue Management Act 2011 (Act 815), petroleum revenues were distributed to the Ghana National Petroleum Corporation (GNPC), the annual budget of the Government and to the Ghana Petroleum Funds (GPFs) as savings.

Table 10 provides a comparison of budgeted and the actual petroleum receipt highlighting the extent to which the actuals deviate from the budgeted amount:

Table 10. Distribution of Petroleum Receipts (GHS Million)

Allocations	Budget	Actual	Deviation	%
Total Allocation of Petroleum Receipts	1,239.82	979.315	(260.5)	(21%)
Transfer to GNPC	361.90	416.885	54.99	15.2%
o/w Equity Financing	190.61	224.205	33.6	17.6%
o/w 40% share of Net Carried and Participating Interest	171.29	192.680	21.39	12.5%
Benchmark Revenue	877.92	562.430	(315.49)	(36%)
o/w ABFA	614.55	516.835	(97.72)	(16%)
o/w Transfers to GPFs	263.38	45.595	(217.79)	82.7%

Source: MOF, Budget and Policy Statement, 2012, 2013

Table 10 shows that the GNPC received **GHS54.99** million more than what was approved in the 2012 Annual Budget by Parliament. This had the effect of shrinking the residual Benchmark Revenue (BR) out of which the Annual Budget Funding Amount (ABFA) and transfers to the Ghana Petroleum Funds (GPFs) were to be funded. The GNPC's share in respect of equity financing costs and net carried and participating interests exceeded the budget by **GHS33.6** million representing 17.6% and **GHS21.39** million representing 12.9% respectively. The total actual revenue realized in 2012 was 21% less than budgeted and therefore affected allocation to the ABFA by 16%. The shortfall in allocation to the GPF was 82.7% from the budgeted amount.

The GNPC has provided the PIAC with a copy of the detailed report sent to Parliament on how their share of 2012 revenue was utilized. The PIAC observed however that, at the end of the year, the GNPC carried over about 26.7% (US\$61.6 million) of those funds as cash –on-hand committed to outlined projects which had been listed to be undertaken in the ensuing period.

Finding

The actual Benchmark revenue in the year under review was 36% less than projected.

The Benchmark revenue has been overestimated since 2011 and this has affected both the Annual Budget Funding Amount (ABFA) and the Ghana Petroleum Funds negatively since they derive their allocation from the Benchmark revenue. The GNPC received **GHS54.99** million more than was approved by Parliament and even though the excess money has been accounted for, the occurrence has had the effect of drastically reducing the amount of money that should have been lodged in the GPFs as required by Law.

5.2. Analysis of Distribution of Revenues

i. The Ghana National Petroleum Corporation (GNPC)

In accordance with Section 7 of Act 815, 2011, the GNPC was allocated **GHS224.2** million as equity financing cost and **GHS192.68** million as carried and participating interest. This allocation is expected to continue for 15 years to enable the National Oil Company (NOC) to be able to meet its financial obligation as a partner in the Jubilee Oil field and have the capacity to participate from a strong position in any other Oil Fields that may be discovered in the future. The company also undertakes on its own some seismic data gathering and research that requires substantial outlay of funds.

Table 11 below shows how GNPC utilized its allocation during the period under review.

Table 11. Utilization of GNPC's Share of Jubilee Crude Oil Revenues

Item	2011 (US\$)	2012 (US\$) Jan - Dec	Expenditure as % of Receipts
Receipts from Jubilee Proceeds			
Level A Receipts (Equity Financing)		124,630,628	
Level B Receipts (40% of net proceeds)		106,319,298	
Total Amounts Received (A)		230,949,926	100%
Jubilee Equity financing cost	132,484,815	125,824,747	54.5%
Uses of Amounts Remitted			
Acquisition, processing and interpretation of 2,612 km ² of 3D Seismic Data for the South West Deep Tano Block	30,315,185		
Reservoir Characterization, Voltain basin project, South Deep water Tano projects, North & South Tano project expenses, ICT upgrade, organizational development		10,784,028	4.7%
Gas project related Costs	28,119,624	5,587,779	2.4%
Staff costs	7,661,475	9,013,162	3.9%
General operational and administrative expenditure	9,383,204	16,269,839	7.0%
Amount appropriated by Bank of Ghana as charges		1,796,156	0.8%
Total Expenditure (B)		169,275,711	73.3%
Total Cash on Hand (Committed to Projects) (C=A-B)		61,674,215	26.7%
Total Expenditure & Cash on Hand (D=B+C)	207,964,302	230,949,926	100%
Commitments to Projects			
North & South Tano projects		17,817,385	
TEN		16,736,362	
Voltain basin projects		3,090,224	

South Deep water Tano project		7,227,672	
Reservoir characterization		687,506	
ICT upgrade & expansion		2,591,094	
Data Centre upgrade		1,000,000	
R&D Laboratory upgrade		1,500,000	
Organizational development		2,102,500	
Reserves towards corporate investment projects		8,921,473	
Total Commitments to projects		61,674,215	

Source: GNPC Report to Parliament

ii. Utilisation of the Annual Budget Funding Amount (ABFA)

Sections 21(4) and (5) of Act 815 require the Minister of Finance to prioritize not more than four areas for the purposes of expenditure of the ABFA 70% of which must be in the area of **public investment**. The priorities selected are subject to review every three years, taking into consideration “the development needs as well as the absorptive capacity of the economy. The priorities selected and their respective allocations from the ABFA for the year 2012 in the budget as reported by the Ministry of Finance are shown in the following Table 12.

Table 12. Disbursement of the ABFA (GHS)

Priority Areas	Goods & Services/ Consumption	Assets/ Investment	Total	%
Expenditure & Amortization of Loans for Oil & Gas Infrastructure		100,000,000	100,000,000	19%
Road & Other Infrastructure	43,398,774	189,004,495	232,403,269	45%
Agriculture Modernization	30,191,200	42,280,624	72,471,824	14%
Capacity Building (including in Oil and Gas)	49,869,738	62,090,000	111,959,738	22%
Percentage	24%	76%		100%
Total	123,459,713	393,375,118	516,834,831	100%

Source: MOF, Budget and Policy Statement, 2013

The PIAC has observed that the Government had another expenditure allocation schedule in the 2012 Budget, captured in Table 13 below, which was markedly different from what Parliament had approved with regard to the selected priority areas of spending in line with section 21(4) of the PRMA.

Table 13. Allocation of the Annual Budget Funding Amount by Ministries

SECTORS	2012 (GHS)			
	Goods & services	Asset	Total	%
ADMINISTRATION	2,000,000	111,128,064	113,128,064	18%
Office of Government Machinery	0	65,000,000	65,000,000	11%

Parliament of Ghana	0	5,000,000	5,000,000	1%
District Assemblies Common Fund	0	19,128,064	19,128,064	3%
Ministry of Finance	2,000,000	7,000,000	9,000,000	1%
Ministry of Local Government	0	15,000,000	15,000,000	2%
ECONOMIC	82,930,610	171,950,000	254,880,610	42%
Ministry of Food & Agriculture	10,500,000	42,500,000	53,000,000	9%
Ministry of Lands & Natural Resources	33,840,000	0	33,840,000	6%
Ministry of Trade & Industry	3,590,610	9,450,000	13,040,610	2%
Ministry of Environment, Science & Technology	25,000,000	0	25,000,000	4%
Ministry of Energy	10,000,000	120,000,000	130,000,000	21%
INFRASTRUCTURE	40,000,000	91,000,000	131,000,000	21%
Ministry of Water Resources, Works & Housing	0	21,000,000	21,000,000	3%
Ministry of Roads and Highways	0	40,000,000	40,000,000	7%
Ministry of Transport	40,000,000	30,000,000	70,000,000	11%
SOCIAL	42,000,000	10,000,000	52,000,000	9%
Ministry of Education	10,000,000	10,000,000	20,000,000	3%
Ministry of Employment & Social Welfare	10,000,000	0	10,000,000	2%
Ministry of Youth & Sports	22,000,000	0	22,000,000	4%
PUBLIC SAFETY	0	25,000,000	25,000,000	4%
Ministry of Interior	0	25,000,000	25,000,000	4%
MDAs Total	166,930,610	409,078,064	576,008,674	94%
Intra-Sectoral	17,432,740	21,103,085	38,535,525	6%
Overall Total	184,363,350	430,181,149	614,544,499	100%

Source: MOF, Budget and Policy Statement, 2012

The table above shows that even though the law requires the Minister to prioritize not more than four areas, the Minister intended to allocate the ABFA to almost all the 13 areas listed in the law including public safety,

social services, environmental protection, etc. This defeats the objective of priority setting, meant to achieve optimum impact from spending of petroleum revenues by Government as defined in Section 21(5) of Act 815.

Further, the intended allocation of petroleum revenues to the Office of Government Machinery (**GHS65** million), Ministry of Lands and Natural Resources (**GHS33.8** million), Ministry of Trade and Industry (**GHS13** million) and such similar priorities indicated in Table 13 above, if it was actually done, can only promote consumption spending as opposed to investment spending in line with spending objectives defined in the law. The Ministry of Finance is yet to provide an explanation for this anomaly or clarify the situation, neither have any details been given on the areas of spending reported in Table 12.

Finding

*The Ministry of Finance does not seem to have implemented the plan of expenditure from Petroleum Revenue approved by Parliament in the 2012 Budget, especially, as no details have so far been provided for the expenditure in the Selected four priority areas reported to Parliament. That report contained an expenditure item in a total sum of **GHS 111,959,738** described as "Capacity Building" among others, which needs to be explained.*

Furthermore, the report to Parliament provided by the Ministry of Finance appears to differ in content from details in Table 13 provided in this report. This is yet to be explained by the Ministry.

The requirement for 70% of the ABFA to be spent on public investment under Section 21 (4) was also not adhered to.

iii. Ghana Petroleum Funds

According to Section 18 (1) of Act 815, the ABFA shall not exceed 70% of Benchmark Revenue. The Benchmark Revenue is defined by Section 61 of Act 815 as "the estimated revenue from petroleum operations expected by the Government for the corresponding financial year." This revenue is required under Section 6 to be paid into the Petroleum Holding Fund. Section 7 allows the Minister to allocate an amount approved by Parliament to the National Oil Company (GNPC). The residual amount can therefore be described as the Benchmark Revenue which must then be appropriated between the ABFA and the Ghana Petroleum Funds.

Section 18 provides that the appropriation to the ABFA shall be as approved by Parliament but shall not exceed 70% of the Benchmark Revenue. Section 23 attempts to break down the mechanics of allocation on quarterly basis. However, this split is not very clear as it refers to an excess of one quarter of the ABFA instead of making reference to the total Benchmark Revenue. The Committee's opinion on this aspect of the law is captured in the write-up attached as **Annex**. Whereas in 2011, GoG transferred funds into the GPF even though "the ABFA had not been exceeded in any quarter," (see page 27 of the PIAC 2011 annual report) the MOF in 2012 sought to give an interpretation of section 23 using a table published in its annual report to Parliament whereby the ABFA was divided into four equal parts and set against actual receipt in each quarter in order to determine any excess. Going by that methodology, the GPF would not have received any funds except in the second quarter. Curiously, as at the end of the second quarter, no funds had been transferred into the GPF (see the PIAC 2012 semi-annual report page 17). The MOF however reported a transfer of US\$ 45.6 million (split 70:30 into the Stabilization and Heritage funds) in the third quarter of the year.

Table 14. Transfers to the Ghana Petroleum Funds (GHS)

Allocation	% of GPFs	Actual 2012	Actual 2011	Difference (2012/2011)
GPFs	100%	45,595,226	105,253,361	-59,658,135
o/w Stabilization Fund	70%	31,916,658	83,345,244	-51,428,586
o/w Heritage Fund	30%	13,678,568	21,908,117	-8,229,549

Source: MOF, Budget and Policy Statement, 2012, 2013

Table 14 above shows that in spite of increased petroleum receipts and therefore higher Benchmark Revenue in 2012, transfers to the Ghana Petroleum Funds declined to **GHS45,595,226** from **GHS105,253,361** in 2011. This affected transfers to the GSF and GHF as a result of the difference in approach in the interpretation of the law. In 2011, the Government computed 70% of all quarterly collections of petroleum revenues as the ABFA and the remaining 30% of the collections were transferred to the GPFs. However, the attempt to follow the provisions in Section 23b of the law, by transferring only the actual quarterly excess collections over the ABFA to the GPFs resulted in lower transfers to the Petroleum Funds.

Even if that approach was to be adopted consistently, the result should have been that only **GHS17,500,066** should have been lodged in GPFs and not the **GHS45,595,226** reportedly transferred as shown in Table 15. Obviously, the predictability and transparency which Act 815 seeks to promote in the instance has not been achieved.

Table 15. Declaration of Excess Petroleum Revenue (GHS)

Quarter	Budget	Actual	Deviation
Quarter 1	153,636,614	100,467,640	(53,168,974)
Quarter 2	153,636,614	171,136,680	17,500,066
Quarter 3	153,636,614	121,581,541	(32,055,073)
Quarter 4	153,636,614	123,648,970	(29,987,644)
Total	614,546,457	516,834,831	(97,711,626)

Source: MOF, Budget and Policy Statement, 2013

It is important to state that the provision in Section 23b of Act 815 could be used to undermine the Ghana Petroleum Funds and limit the rate of savings of petroleum revenues for the purpose of budget stabilization and intergenerational equity. This could be done by making higher projections of the ABFA resulting in non-declaration of excess revenues for transfer to the GPFs.

Finding

In 2012, actual transfers to the Ghana Petroleum Funds fell short of target by 82%. This is due to the interpretation of Section 23b of Act 815 which seems to require only excess revenue collection over quarterly ABFA to be transferred to the Ghana Petroleum Funds. This interpretation of the law was however different from what was applied in the 2011 allocations. In the view of the Committee, the different interpretation of the law creates room for abuse which must not be encouraged.

5.3. Investment of the Ghana Petroleum Funds

The PRMA 2011 (Act 815) requires the Minister of Finance to develop an investment policy for the investment of the Ghana Petroleum Funds. The Act also mandates the BOG to manage the Ghana Petroleum Funds prudently within the framework of the operational and management strategy provided by the Minister, taking cognizance of investment guidelines used by the BOG for investment of a similar nature.

Under the investment rules of the Act, it is stated that the Funds shall be invested in qualifying instruments prescribed by Executive Instrument and the range of instruments designated as qualifying instruments shall be

reviewed every three year or sooner by the Minister on the advice of the Investment Advisory Committee (IAC). The IAC has been mandated to formulate and propose to the Minister the investment policy and management of the Ghana Stabilisation Fund and the Ghana Heritage Fund and the Minister shall submit it for approval by Parliament. The IAC is also mandated to advise the Minister on the broad investment guidelines and the overall management strategies relating to the GPF and develop for the Minister as part of the investment guidelines the benchmark portfolio, the desired returns from and associated risks for the GPFs and subsequently, the Ghana Petroleum Wealth Fund.

It seems to the PIAC that the above requirements under the Act have not been fully complied with. In our 2012 Semi Annual report, it was indicated that a draft investment guideline had been developed and was yet to be approved by the Minister. Checks with the IAC show that the draft guidelines have not been approved meaning that there is no policy or strategy in place for investing the GPFs. In the view of the PIAC, it appears that in the absence of such a policy guideline all the funds are being invested in short-term fixed income instruments. It is understandable if the Stabilisation Fund is being invested in fixed income assets with short investment horizon and predictable returns because it is meant to insulate the budget from commodity price volatility. It is also expected to have a very low risk profile. However, the more permanent nature of the Heritage Fund may require the use of a combination of some long-term asset classes that is, modest proportion of long-term bonds and equity with moderately higher returns. The overriding objective should be maximizing wealth and long-term growth of the fund. The PIAC would like to suggest for the attention of the Minister that the investment objectives should serve the following purposes:

- i. To seek an attractive moderately high-yielding asset classes with long term horizon to achieve the expected returns for (Heritage Fund.)
- ii. To invest in instruments that allow virtually immediate availability of cash in the event of budgetary contingency for (Stabilisation Fund)

The above suggestions are by way of providing an input for the members of the IAC and the Minister to come out with an appropriate policy to improve the management of the Ghana Petroleum Funds to ensure rapid and sustained growth.

Table 16 below shows the comparative performance of the Ghana Petroleum Funds.

Table 16. Performance of the Ghana Petroleum Funds

Fund Type	Return on Investment (ROI)			
	1 st Half 2012		2 nd Half 2012	
	%	US\$	%	US\$
Ghana Stabilization Fund	0.18	98,835.50	0.15	106,201.90
Ghana Heritage Fund	0.29	42,174.31	0.07	15,024.41
Ghana Petroleum Funds	0.235	141,009.81	0.13	121,226.31

Source: Bank of Ghana

According to the Bank of Ghana, during this period, the pace of global economic recovery was subdued leading to major monetary authorities keeping benchmark interest rates at near zero levels.

The overall balances standing in the Ghana Petroleum Funds for the first and second half of 2012 were:

Table 17. Ghana Stabilisation Fund Account at Euroclear Bank (US\$) – 2012

Item	1 st Jan – 30 th June	1 st July – 31 st Dec
Opening book Value	54,805,352.73	54,908,838.25
Receipt during the period	-	16,883,547.53

Account Management Fees	(2,043.20)	(6,997.77)
Income from Investments	100,878.70	113,199.67
Closing book Value	54,904,188.23	71,898,587.68
Net Income for the Quarter comprised the following		
Investment Income	100,878.70	113,199.67
Less: Account Management Fees	(2,043.20)	(6,997.77)
Net Return for the Period	98,835.50	106,201.90

Source: Bank of Ghana

Table 18. Ghana Heritage Fund Account at Euroclear Bank (US\$) – 2012

Item	1 st Jan – 30 th June	1 st July – 31 st Dec
Opening book Value	14,400,001.62	14,443,390.61
Receipt during the period		7,235,806.08
Account Management Fees	(1,281.42)	(1,728.61)
Income from Investments	43,455.73	16,753.02
Closing book Value	14,442,175.93	21,694,221.10
Net Income for the Quarter comprised the following:		
Investment Income	43,455.73	16,753.02
Less: Account Management Fees	(1,281.42)	(1,728.61)
Net Return for the Period	42,174.31	15,024.41

Source: Bank of Ghana

As at 31st December 2012, the Ghana Stabilization Fund had grown from US\$71,792,385.78 to US\$71,898,587.68. The Ghana Heritage Fund on the other hand grew from US\$21,679,196.69 to US\$21,694,221.10. The total balance standing in the Ghana Petroleum Funds as at 31st December, 2012 was US\$93,592,808.78.

Finding

The investment of the Ghana Petroleum Funds has not as yet yielded high returns, which is of great concern to the PIAC since a continuation of this trend is likely to slow the growth of the Funds, especially the GHF

SECTION 6

PROJECTED PETROLEUM REVENUE FOR 2013

6.1. Projected Petroleum Revenue for 2013

Government projections of petroleum revenue for 2013 show that petroleum revenues are expected to increase to US\$581.7 million from US\$558.7 million in 2012. This consists of Royalties from Jubilee and Saltpond; Carried and participating interests; corporate taxes and surface rentals.

For the first time, Government is expecting natural gas revenues from the sale of gas from the Jubilee Fields. First gas is expected to flow in the last quarter of 2013 when the US\$750 million gas infrastructure project is completed.

Table 19. Projected Petroleum Receipts, 2013

Item	Amount	
	US\$	GHS
Royalties	143,719,814	277,379,240
o/w Jubilee Royalties	143,516,001	276,985,882
o/w Saltpond Royalties	203,812	393,358
Carried and Participating Interest	371,958,838	717,880,557
Corporate Taxes	55,861,240	107,812,193
Surface Rentals	421,799	814,072
Gas Receipts	9,760,000	18,836,800
Total Petroleum Receipts	581,721,691	1,122,722,863

Source: MOF, Budget and Policy Statement, 2013

The projection of corporate taxes appears realistic and achievable due to the substantial recovery of the capital cost of the Jubilee phase I project.

However, total petroleum revenue projections appear to be understated. The projections are based on a crude oil price of US\$94.36 per barrel and a production volume of 83,341 barrels per day, compared to the projected Jubilee peak production of 120,000 barrels expected to be achieved by the end of 2013. Daily production volumes by mid-2013 was around 115,000/103,000 barrels per day, significantly higher than the projected average for the year while actual price by midyear was an average of US\$ 109.32

It is important to note that whilst conservative projections are good for moderating public expectations, they have the tendency to mislead when accuracy is lost and wide margins of error prevail.

Finding

If peak production is achieved in 2013 as planned and expected corporate taxes are collected, petroleum receipts are likely to be higher than projected for the first time as end of year crude oil prices are not expected to fall below US\$95 per barrel.

6.2. New Petroleum Revenue Management Policies

The Government announced a number of policies in the 2013 Budget Statement and Economic Policy for the purpose of improving on petroleum revenue management. The Government directed the following steps to be taken by the Ministry of Finance in 2013.

- i. Track the ABFA allocations transferred to the Consolidated Fund to ensure that they are used for pre-approved programmes and activities as required by Section 21 of the PRMA;
- ii. Ensure that the approved proportions of the Ghana Petroleum Funds (GPFs) are paid into the Ghana Stabilisation Fund (GSF) and the Ghana Heritage Fund (GHF) and in a manner that captures the spirit of the PRMA;
- iii. Prepare a plan for using part of the ABFA to set up an Infrastructure Fund to ensure the country's cost-effective access to the capital markets as part of the plan for enhanced financing of the country's capital expenditure; and
- iv. Ensure that the independent expert appointed under the Act works with relevant public institutions to validate the estimation of the Benchmark Revenue and improve the estimation of corporate tax revenues in particular, on account of the generous incentives that the petroleum sector enjoys under various agreements.
- v. Ensure the completion of PRMA Regulations, as part of a comprehensive review to improve the smooth implementation of the PRMA.

The PIAC welcomes these initiatives as it believes that when implemented they would bring government back on track in the responsible management of petroleum revenues as spelt out in Act 815.

SECTION 7

FINDINGS AND RECOMMENDATIONS

The following key findings and recommendations were made in the assessment of the management of petroleum revenues for the 2012 reporting year.

Findings

I. Revenue from stock spill-over

No action has yet been taken to incorporate revenues from stock spillovers arising from production from one year to another, into the structure of accounting for all petroleum receipts in estimating the Benchmark Revenue nor any special report presented to explain volume differences between production and lifting as indicated in the Committee's two previous reports.

II. Accounting for Surface Rentals

Surface Rentals are now being properly accounted for as part of petroleum receipts and are incorporated into the Benchmark Revenue in accordance with the law.

III. Redetermination and Ghana's share of oil

During the period, there was a redetermination of Original Hydrocarbon-in-Place (OHIP) in the Jubilee field in accordance with the Partners' Unitisation and Unit Operating Agreement (UUOA) leading to some slight changes in the participation ratios and consequently the oil entitlement of the Jubilee Partners. Ghana's share after redetermination is now 17.9588% inclusive of Royalties (from 18.0625% in 2011).

IV. Petroleum Cost

There was an increase in the average production costs of the Jubilee partners from US\$13.99 per barrel to US\$16.11 per barrel as a result of having to correct some technical problems encountered in 2011 and the early part of 2012. These corrections included acid stimulations conducted on the fields of the Jubilee Phase I.

V. Crude Oil Lifting

Total crude oil lifted from the Jubilee oilfields was 26,430,934 barrels for year 2012 exceeding the total production volume of 26,351,278 barrels by 79,656 barrels indicating a spillover from 2011. The Ghana Group lifted 4,931,034 barrels of crude oil inclusive of the 5% royalty reflecting a total share of 18.66% in the new sharing ratio after redetermination, which slightly more than 17.9588% which is Ghana's entitlement in year 2012.

VI. Petroleum Income Tax 2012

For the second consecutive year, no corporate taxes were received because the companies were not in a tax paying position as cautioned by the PIAC in the 2012 Annual Report. The inclusion of corporate taxes in expected petroleum receipts in 2012 (just as in 2011) has had the effect of distorting the Benchmark Revenue determination and subsequently the distribution of actual revenues during the period.

VII. Crude Oil Pricing

Though the Ghana Group gained about US\$20.18 per barrel on its projected crude oil price of US\$90 per barrel, the 22.42% deviation from average price realized is too wide and calls to question the plausibility of the assumptions behind the price projections used in the budget for the year 2012. However, Ghana's actual sale price was comparable to that realized by the other Jubilee partners.

VIII. Total Revenue

Total actual petroleum revenue received in 2012 was **GHS979.324** million compared to the projected revenue of **GHS1,239.82** million representing a 21% shortfall of revenue.

IX. Petroleum Revenue Distribution

The actual Benchmark revenue in the year under review was 36% less than projected.

The Benchmark revenue has been overestimated since 2011 and this has affected both the Annual Budget Funding Amount (ABFA) and the Ghana Petroleum Funds negatively since they derive their allocation from the Benchmark revenue. The GNPC received **GHS54.99** million more than was approved by Parliament and even though the excess money has been accounted for, the occurrence has had the effect of drastically reducing the amount of money that should have been lodged in the GPFs as required by Law.

X. Utilization of ABFA

The Ministry of Finance does not seem to have implemented the plan of expenditure from Petroleum Revenue approved by Parliament in the 2012 Budget, especially, as no details have so far been provided for the expenditure in the selected four priority areas reported to Parliament. That report contained an expenditure item in a total sum of **GHS 111,959,738** described as "Capacity Building" among others, which needs to be explained.

Furthermore, the report to Parliament provided by the Ministry of Finance appears to differ in content from details in Table 13 provided in this report. This is yet to be explained by the Ministry.

The requirement for 70% of the ABFA to be spent on public investment under Section 21 (4) was also not adhered to.

XI. Ghana Petroleum Funds

In 2012, actual transfers to the Ghana Petroleum Funds fell short of target by 82%. This is due to the interpretation of Section 23b of Act 815 which requires only excess revenue collection over quarterly ABFA to be transferred to the Ghana Petroleum Funds. This interpretation of the law was however different from what was applied in the 2011 allocations. In the view of the Committee the different interpretation of the law creates room for abuse which must not be encouraged.

XII. Investment of the Ghana Petroleum Funds

The investment of the Ghana Petroleum Funds has not as yet yielded high returns, which is of a great concern to the PIAC since a continuation of this trend is likely to slow the growth of the Funds, especially the GHF.

XIII. Projected Petroleum Revenue 2013

If peak production is achieved in 2013 as planned and expected corporate taxes are collected, petroleum receipts are likely to be higher than projected for the first time as end of year crude oil prices are not expected to fall below US\$95 per barrel.

Main Recommendations

1. Revenue from Stock Spillover

The Committee reiterates its recommendation (ii) in the 2011 Annual Report that the Ministry of Finance should report on the revenue overspill from 2011 which could probably be the outcome of petroleum produced at the onset of operations in 2010.

The Ministry of Finance must also take into consideration the movement of stocks at the beginning and end of every production year to enhance the planning process and improve the quarterly projections of petroleum receipts rather than the current method by which the whole year's revenue is simply divided into four equal parts for the purpose of allocation of Petroleum Revenue.

2. Surface Rental Payments

The Ministry of Energy and Petroleum and/or the Petroleum Commission must ensure that invoices on surface rentals are raised and paid by all IOCs operating in Ghana in a timely manner as stipulated by law.

3. Petroleum Income Tax

The inaccurate estimation of petroleum income taxes and for that matter any other constituents of petroleum revenue could give rise to distortions in the determination of the Benchmark Revenue and thereby affect its distribution. The MOF must therefore endeavour to improve the accuracy and reliability of its forecasting.

4. Crude Oil Pricing

Sections 9, 10 and 11 of Schedule 1 of Act 815 stipulate that assumptions upon which calculations are made in the estimation of Benchmark Revenue are to be clearly stated and any later changes pointed out. These assumptions are to be prudent, reflect international best practice and be based on internationally recognized standards. The Ministry of Finance must therefore pay attention to this requirement and disclose the assumptions in their report.

5. Petroleum Revenue Distribution

In the distribution of Petroleum Revenue, the Ministry of Finance must be guided by the policy objectives underlying the PRMA of setting aside some of our petroleum revenues into a fund for future use. The current distribution mechanism, based on Section 7 of the Act, appears to leave too much funds at the disposal of the National Oil Company at the expense of the ABFA and GPFs. This is a lingering problem as it appeared as Finding v of the report of PIAC for year 2011. If necessary, judicial interpretation of the relevant provisions of the Act should be sought to provide the basis for firm actions in future or outright replacement of those sections of the Act may be needed to remedy the situation.

6. Utilization of ABFA

The PIAC wishes to reiterate its recommendation in the 2012 Semi Annual Report that the “Ministry of Finance and Economic Planning must consider utilizing a dedicated account to receive the Annual Budget Funding Amount from the Petroleum Holding Fund at the Bank of Ghana. This will ensure that allocations from this account can be tracked to give meaning to transparency and accountability.” The Ministry of Finance must take immediate steps to publish a more detailed report on how the ABFA approved by Parliament was disbursed and give more details of expenditure on Loan Repayment and Capacity Building in the report.

We also recommend that the Ministry of Finance must comply with the provisions of Section 21 (4) and (5) in the spending of petroleum revenues designated as the ABFA.

7. Ghana Petroleum Funds

The PIAC is concerned about the impact of the interpretation of Section 23b of the Act on the GPFs and has therefore offered in Annex I of this report a legal opinion on the relevant sections of Act 815 that deal with how funds are to be transferred into the Ghana Petroleum Funds. The Committee recommends that Parliament should take a critical look at this exposition and take steps to amend this section of the Act for better clarity that will enhance implementation to ensure that the GPFs are funded regularly.

8. Investment of the Ghana Petroleum Funds

The Government must release the Policy and Guidelines to assist the Fund Managers to better manage these funds as required by the PRMA 2011, (Act 815).

Other Recommendations:

9. Enactment of Regulations

After three years of the coming into force of Act 815, the regulations that will help with the implementation of the law are long overdue. We therefore call for expedited action to be taken to complete the drafting of the regulations for the approval of Parliament.

10. Review of PRMA 2011

Some aspects of the Act, as detailed in the legal opinion attached as Annex I, that have proved challenging in implementation should be reviewed and corrective measures taken to get those sections duly amended by the Parliament of Ghana.

11. Legislation on funding for the PIAC

We recommend that a section of the Act must be introduced to cater for the funding of the PIAC and the Petroleum Commission to enable them carry out their respective mandate as was done for the GNPC and the IAC.

Outcomes of the Public Meetings or Forums

In fulfilment of Section 52 (b) of Act 815, the Committee held two public meetings in Takoradi and Kumasi in 2012. The meetings involved a cross section of the public including chiefs, workers representatives and district assembly members.

The contents of the PIAC 2011 annual report were presented to the public and they were invited to make comments and contributions.

The concern of many of the contributors was that government should establish a clear- cut long term plan for the public to know what the petroleum revenues are going to be used for, so that periodically, government can be assessed whether it is meeting the objectives which are contained in the plan.

Most contributors were not happy about the number of uncompleted projects from one government to another and expressed anxiety that without a national plan the country will be littered with uncompleted projects that do not benefit anybody.

A section of the participants also called on government to allocate petroleum revenues to animal husbandry and poultry sectors under the Ministry of Food and Agriculture. In their view, Ghana has the potential of producing its own requirement of animal and poultry products instead of having to rely on imported products whose quality, very often, does not meet international standards. Below are some pictures from the two meetings.

PIAC Public Forum in Takoradi





PIAC Public Forum in Kumasi





SECTION 8

ROLE OF INSTITUTIONS

Table 20. The Role of Institutions under the Petroleum Revenue Management Act

Section	Provisions of Act 815	Status
MINISTER OF FINANCE		
17	Benchmark Revenue - not later than September 1st of each year estimate and certify the Benchmark Revenue using the formula set out in the schedule.	Benchmark Revenue has been determined but not independently certified as required by law
25d	The Minister of Finance shall enter into an Operation Management Agreement with the Bank of Ghana for the operational management of the Ghana Petroleum Funds	The Agreement has been entered into
48(1)	The Minister of Finance to submit an annual report on the Petroleum Funds as part of the annual presentation of the budget statement and economic policies to Parliament	The Minister presented a comprehensive report to Parliament as part of the 2013 Budget
8(1)	The records of petroleum receipts in whatever form, to be simultaneously published by the Minister in the Gazette and in at least two state-owned daily Newspapers, within thirty calendar days after the end of the applicable quarter.	Report has been variously published in the Ghanaian Times and on the website of the Ministry of Finance
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).	Report has been variously published in the Ghanaian Times and on the website of the Ministry of Finance
60	The minister by legislative instrument makes Regulation for the effective performance of the Act.	Regulations have been drafted but not yet approved by Cabinet and laid in Parliament
25a	Develop an investment policy for the investment of the Ghana Petroleum Funds	Yet to be completed
THE AUDITOR GENERAL(AG)		
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.	The Auditor General has completed an audit of the Petroleum Funds for the period ended December 31, 2012
46(4)	The Auditor-General shall publish the reports on the Petroleum Funds within thirty days after submission to Parliament	The Report has not been published yet
THE BANK OF GHANA (BOG)		
28(1)	Bank of Ghana Report on the Ghana Petroleum Funds to the Minister and the Investment Advisory Committee Quarterly	The Bank of Ghana has been reporting to the Minister and the Investment Advisory Committee
28(2)	Bank of Ghana report to Parliament and publication in 2 National Dailies not later than 15th Feb and 15	The Bank of Ghana has published 2 semi-annual reports so far

	August each year	
GHANA REVENUE AUTHORITY (GRA)		
3(1)	Authority to assess and collect petroleum Revenue due the Republic of Ghana	GRA has been exercising this authority
GHANA NATIONAL PETROLEUM COMPANY (GNPC)		
7(3)b	Approve the programme of activities of the National Oil Company for 2011	Parliament approved GNPC's programme for 2012
INVESTMENT ADVISORY COMMITTEE (IAC)		
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	The Committee has submitted quarterly reports to the Minister of Finance in 2012
7(3)b	Submit programme of activities to Parliament	Submitted its program to Parliament through Minister of Energy

SECTION 9

CHALLENGES

Since its inauguration in September 2011, the PIAC has faced several difficulties in carrying out its mandate. Government has failed to provide the Committee with the kind of Secretariat envisaged under the PRMA. The Committee has had to operate from the conference room of the Revenue Watch Institute (RWI). In the Committee's first year of operation, the RWI seconded one of its administrative staff to help coordinate the work of the PIAC. Members of the Committee have only recently been paid allowances for years 2011 and 2012.

In the midst of these difficulties, the PIAC has had to rely on the benevolence of development partners and the magnanimity of members as it struggles to undertake the onerous tasks of monitoring the management of the country's hydrocarbon resources. For example, the German Technical Cooperation (GIZ) has funded the preparation of the two reports that the PIAC has produced. The GIZ also supported the two regional public meetings in Takoradi and Kumasi at which the PIAC offered members of the public the opportunity to share their perspectives on the governance of oil and gas revenue. The Revenue Watch Institute and the Institute of Economic Affairs have primarily supported the training programmes that members of the Committee have so far benefitted from. And as we have already alluded to, the RWI has hosted the Committee since it was established. The Committee has also received some support from Oxfam America.

It is instructive to note that, the support from these partners have largely gone into the preparation and publication of reports, training programmes and payment of some administrative expenses. The partners will, for example not pay for staff costs; neither will they pay for allowances of Committee members. It is also instructive to note that, government has released only **GHS345,000** out of a budget of about **GHS1.3** million to the Committee in the last two years for its work. Part of that money was used to rent office space for the Committee and to pay for the salaries of the Coordinator and an intern the Committee employed to assist in its work. The Committee rented the office space as part of the preparation to set-up its own secretariat. However, the Committee could not move into the new office because it had no money to furnish the office.

These challenges have severely affected the work of the Committee and compromised its ability to effectively monitor and evaluate compliance with the PRMA by government and its agencies. For example, the Committee has not been able to go behind the figures either in terms of allocations or expenditures made by government and all the agencies that have something to do with oil revenue management. The Committee has had to rely to a large extent on the figures reported by the very spending agencies whose activities the Committee is established to monitor and evaluate. The Committee is not able to travel to project sites to see at first hand the status of projects that are being financed with revenues from oil. In addition, the Committee is not in the position to undertake value for money audit to ascertain the true costs of projects implemented with oil revenues.

It is difficult to explain why in spite of the fanfare that heralded the inauguration of the PIAC, government has failed to resource the Committee. At the same time government has consistently pointed to Ghanaians and the international community the creation of the PIAC as a show of its commitment to transparently managing Ghana's hydrocarbon resources prudently and in the interest of the people of Ghana. In all of the President's Sessional Address since the PIAC was inaugurated, the Committee has featured prominently. However, in spite of the many challenges it has faced in the last two years, the PIAC and its members have demonstrated a certain level of commitment that has seen the Committee produce two high quality reports, and organised

two regional forums. The Committee has steadfastly guarded its independence and refused to be drawn into the partisanship that has attended discussions in this country and in particular discussions of how effective or otherwise government is managing oil revenues. This neutral stance and the commitment to be factual in our commentary on oil revenues should, we thought, engender confidence and incentivise government to invest in this very important accountability institution as it (government) strives to use the new-found revenues to prosecute its agenda.

The Committee finds it curious that oil revenues are expended on organisations that have nothing to do with the management of oil revenues, yet the accountability institutions that government in its wisdom and commitment created are denied funding. Furthermore, the Committee finds it strange that, it has had to rely on the magnanimity of officials in the Ministry of Finance to push through its funding request. Government appears not to have any institutional mechanism for funding the work of the PIAC. This, we find very strange and unfortunate.

On the 14th of September 2013, the PIAC chalked two years. The tenure of some of the current members has expired even though those members are eligible for re-appointment. Surely, the Committee cannot be held in a limbo without replacement or reappointment of those members. It would be good for government to outline the funding arrangements for the Committee that will insulate it from external and internal encroachments. That way, the Committee will be enabled to deliver on its mandate of supporting transparent management of oil revenues and securing lasting benefits to the people of Ghana.

ANNEX

I. SS9&10,11&23-ALLOCATION OF PETROLEUM RECEIPTS – A LEGAL OPINION

The Committee observes that in the 2012 Annual Report on Petroleum Funds submitted to Parliament by the Ministry of Finance, paragraphs 12 and 42 capture allocation of petroleum receipts for 2011 and 2012 respectively. Paragraph 12 of the Report states, in connection with the 2011 petroleum receipts as follows:

“The 2011 total petroleum receipts was allocated to the various allowable sources, in accordance with the relevant sections of the PRMA, to the National Oil Company (NOC) or GNPC, the Annual Budget Funding Amount (ABFA) and the Ghana Petroleum Funds (GPFS). The relevant shares, including the payments to GNPC, are pre-approved by Parliament”

Paragraphs 14 and 15 give details of the actual transfers to the various Funds in 2011.

Paragraph 42 of the Report states, in connection with the 2012 petroleum receipts as follows:

“Petroleum receipts obtained in 2012 were disbursed in accordance with section 7 of the PRMA which stipulates, inter alia, that funds received into the PHF should be applied to meet the NOC’s Equity Financing Costs in respect of the NOC’s share of development and production cost after which the net proceeds are shared between the Government of Ghana (GOG) and the NOC. Currently, Parliament has approved a split of 40% of the net proceeds for the NOC and the remaining 60 percent for GOG in consonance with section 7 (3) of the PRMA. The current split of the net proceeds between NOC and Government is reviewed every three years with the first review due in 2014...”

Paragraphs 43 and 44 give details of the actual transfer into the various Funds in 2012.

The allocations are made usually with references to the following sections to the PRMA: i.e. sections 7(3), 11, 18, 19 and 23.

The Committee notes however, that no reference is usually made of sections 9 and 10 of the PMRA. Sections 9 and 10 establish the Ghana Stabilization Fund and the Ghana Heritage Fund respectively.

S9(2) provides:

“The object of the Ghana Stabilization Fund is to cushion the impact on or sustain public expenditure capacity during periods of unanticipated petroleum revenue shortfalls”

(emphasis supplied)

Section 9(3) provides:

“The Ghana Stabilization Fund shall receive from the Petroleum Holding Fund a percentage of petroleum revenue which is determined by Parliament as savings for the purpose of this Act.”

(emphasis supplied)

Section 10(2) provides:

“The object of the Ghana Heritage Fund is to

(a) provide an endowment to support the development for future generations when petroleum reserves have been depleted;

(b) receive excess petroleum revenue (emphasis supplied)

Section 10 (3) provides:

“The Ghana Heritage Fund shall receive from the Petroleum Holding Fund a percentage of petroleum revenue which shall be determined by Parliament as savings for the purpose of this Act.”(emphasis supplied)

The Committee notes that given the objects of the GSF and the GHF the funding of the two Funds cannot be limited only to allocations based on sections 11 and 23 of the Act which make the two Funds dependent solely on “petroleum revenue in excess” of the ABFA.

The Committee is of the view that in order to achieve the object for which the two Funds were established there is the need for Parliament to determine “a percentage of petroleum revenue” to be received from the PHF as ‘savings’ for the purpose of the Act. It is to be noted that in section 9 there is no reference to a receipt of the “excess” from the ABFA. Section 10 however makes reference to receipt of “excess petroleum revenue”. Under section 11 the indication is given that the GPF will both (ie .the two Funds) receive from the PHF “revenue in excess of the “ ABFA.

Section 16 specifies disbursements from the PHF and it repeats the idea of “savings” and “investments” apart from the disbursements to support the national budget through the ABFA.

Parliament has not, so far, determined any percentage of the PHF, under sections 9(3) and 10(3), which is to go into the two Funds (i.e. the GSF and the GHF) other than transfers made where there is petroleum revenue in excess of the approved ABFA under sections 11 & 23 of the PMRA.

The percentage allocation, which may be done quarterly, is already determined under section 23(b) as

“ a minimum of thirty percent of the excess revenue determined in subsection 1(a)” which is to be transferred into the GHF and “the balance” transferred into the GSF each quarter “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...”(emphasis supplied)

The transfer to be done under section 23 is a purely ministerial act based on the Minister’s discretion, as the minimum standard rules are predetermined. There is no need for Parliament to fix any percentage under Section 23. The Act even does not require it.

The relevant determination to be made by Parliament referred to in section 23(1) (a) is based on section 18 in connection with the determination of the actual ABFA under section 18 (3) as a percentage of Benchmark Revenue and it “shall not be more than seventy percent of the Benchmark Revenue.” See S18 (1).

The Committee is of the view that a separate transfer of revenue allocation is to be made to the PHFs and the GSF based on an approved percentage of the PHF under sections 9 and 10 in order to satisfy the objectives for which the two Funds were set up. It is clear from the Act that Parliament anticipates that the two Funds cannot depend solely on the transfers to be made under sections 11&23 regarding situations where there is an excess of petroleum revenue over and above the determined ABFA. What if there is no ‘excess’ for five succeeding years? If this were to be the case it will mean the future generation will be deprived of the benefit of oil revenues for development under the GHF and again there will be no Fund to fall on where there is a shortfall in any particular quarter of the year under the GSF. The tone for the disbursement of the PHF is set in section 16 where it is provided that:

“disbursement from the Petroleum Holding Fund shall be made only.

a) to the consolidated Fund in support of the national budget;

b) to the Ghana Petroleum Funds for the purposes of savings and investments , and

c) for exceptional deductions according to the provisions of this Act.”

(emphasis supplied)

It is to be noted that under this section there is no reference to any “excess” of ABFA and the “savings” used here is in consonance with the “savings” mentioned under sections 10 and 11 with respect to the GSF and GHF.

II. SS17&18 - Determination of the Benchmark Revenue and the ABFA.

“Benchmark Revenue” is defined in section 60 to mean “the estimated revenue from Petroleum Operations expected by the Government for the corresponding financial year :”

The Benchmark Revenue is to be estimated and certified by the Minister not later than September 1st of each year using the formula set out in the First Schedule of the Act. See Section 17.

The Benchmark Revenue for each financial year is given in a mathematical formula in paragraph (5) of the First Schedule as follows:

“Benchmark Revenue = Expected current receipt from oil + expected gas royalties + expected dividends from the national oil company.

In the language of paragraph (5): “Benchmark Revenue is the sum of the expected revenue from crude oil defined in paragraph (3), expected gas royalties defined in paragraph (4), and the expected dividends from the national oil company.” (emphasis supplied)

Paragraph (1) of the First Schedule provides:

“For the purposes of this section {section 17} the Annual Benchmark Revenue from petroleum operations shall be calculated on the basis of actual and expected average unit price for crude 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.(emphasis supplied)

Paragraph (2) provides:

“The expected quantity 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, the current financial year, and the one year ahead projection following the current financial year”. (emphasis supplied)

Paragraph (3) states:

“ *Expected revenue from crude oil is the product of the unit prices and quantity data of crude oil defined in paragraphs (1) and (2)*”.(emphasis supplied)

Under Paragraph 4:

“Expected gas royalty shall be calculated on the basis of anticipated royalties on anticipated 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 and two years immediately following the current financial year.”

Paragraph 6 of the First Schedule provides that:

“The annual allocation to the budget from petroleum revenue for current spending is determined as:

Annual Budget Funding Amount = Predetermined percentage Benchmark Revenue”.

The predetermined percentage shall be determined on year-to- year basis”.

The predetermination is to be done by Parliament under section 18(3) reflecting the actual percentage of Benchmark Revenue that is to go into the Consolidated Fund to support the Annual Budget as Annual Budget Funding Amount, which under Section 18(1) is not to exceed 70%of the Benchmark Revenue.

The quantum to be transferred on quarterly basis from the PHF into the ABF is given as “an amount not more than one-quarter” of the approved ABFA. Section 19(1) (a)

So far, all the amounts and quantities of oil or gas being transferred into the PHF are in connection with gross production and receipts.

Section (6) defines what constitutes the Petroleum Holding Fund as “the gross receipts” made up of:

(a) royalties from oil and gas, additional oil entitlements, surface rentals, other receipts from any petroleum operations and from the sale or export of petroleum;

(b) any amount received from direct or indirect participation of government in petroleum operations;

(c) corporate income taxes in cash from upstream and midstream petroleum companies;

- (d) any amount payable by the national oil company as corporate income tax, royalty, dividends, or any other amount due in accordance with the laws of Ghana; and
- (e) any amount received by government directly or indirectly from petroleum resources not covered by paragraphs (a) to (d) including where applicable, capital gains tax derived from the sale of ownership of exploration, development and production rights.

It is to be noted that what constitutes the PHF is in gross terms and does not admit of net proceeds. It is on the basis of the PHF as represented by the actual and expected average unit price for crude oil and natural gas derived from a seven year moving average from petroleum operations that the Annual Benchmark Revenue is to be calculated. There is no indication of a net “unit price”

It is also from the Benchmark Revenue that not more than 70% of the ABFA is to be derived. It is therefore somewhat strange and disturbing that Section 7 of the same Act has made provisions as to the payments to be made into the PHF by referring to Section 7(1) in the following words:

“Revenue due from the direct or indirect participation of the Republic in petroleum operations including the carried and participating interests shall be paid into” the PHF.

The same section goes on in subsection 2 that:

“The payment into the Petroleum Holding Fund shall be net of

(a) the equity financing cost, including advances and interest of the carried and participating interests of the Republic; and

(b) the cash or the equivalent barrels of oil that shall be ceded to the national oil company out of the carried and participating interests recommended by the Minister and approved by Parliament.”

For the next fifteen years the cash or the equivalent in barrels of oil to be given to the national oil company (GNPC) is not to exceed fifty five percent (55%) of the net cash flow from the carried and participating interest after deducting the equity financing cost under section 7(2)(a). see section 7 (3)

For 2011 and 2012, the actual percentage ratio was 40% to GNPC and 60% to the Government of Ghana. The sharing has to be approved by Parliament under section 7(2)(b).

The Committee is of the view that given the fact that it is the net amount that is to go into the PHF after deduction of equity financing cost the fixing of not more than 55% is on the high side.

Even though the government is not bound to meet this high percentage, the Committee is of the view that at this stage, the allocation of 40% to GNPC is rather on the high side.

As at now GNPC has not started development on its own. When that happens it is likely there will be additional claim of development cost unless the Act is amended to define “equity financing cost” to include “development cost” to absorb it under the GNPC current share of 40%. This will provide a justification for an increase in the percentage! The net effect will be to reduce the oil revenue needed for savings, investment and immediate development through the budget.

The Committee observes some inconsistency in the provisions of the Act as to what is to go into the PHF with the resultant determination of the Benchmark Revenue and finally the ABFA. The allocation to the PHF as NET of the equity financing cost and the cash or the equivalent in barrels of oil to be ceded to GNPC effectively reduces Government capacity to have enough resources for the ABFA and hence for development.

In any case, section 7(2) is inconsistent with other provisions of the Act and it is not clear if this is an indirect amendment of the said provisions as demonstrated above.

Section 3 expressly provides:

“The petroleum revenue assessed as due in each month shall be paid by direct transfer” into the PHF by the entities obliged to make the payment. (emphasis supplied)

“Petroleum revenue” is also defined in section 61 to include;

- “(a) royalty in cash or in equivalent barrels of oil or equivalent units of gas, payable by a licensed producer, including the national oil company or a company under a Production Sharing Agreement or other agreement;
- (b) corporate income taxes payable by licensed upstream and midstream operators;
- (c) participating interest;
- (d) additional oil entitlements;
- (e) dividends from the national oil company for Government's equity interest;
- (f) the investment income derived from accumulated petroleum funds;
- (g) surface rentals paid by licensed producers; or
- (h) any other revenue determined by the Minister to constitute petroleum revenue.

There is no indication also, by definition as to whether the “petroleum revenue” is the net of these receipts just as it is also not clear whether the definition of PHF is referable to the net of petroleum receipts.

The effect of section 7(2) is the implied amendment of the relevant provisions dealing with the specific issues in section 3, 6, 61 and the First Schedule paragraph 1, 2, 3 and 4.

III. Section 4: Payments with petroleum in place of cash

The Committee notes an inconsistency inherent in section 4 with respect to the possibility of currency fluctuation and price differentials between the period of valuation and the day of ‘receipt’ to be” recorded” by GRA as payments for the PHF and the proceeds of sale to be credited to the PHF within 60 days after receipt of the petroleum by which time it would have been recorded by GRA as payment for the PHF at the prevailing dollar rates. Perhaps there will be subsequent adjustment made in the accounts to reflect the actual value of the oil at the time of sale. This is however a needless exercise that could have been avoided with a clearer rendition of the section.

APPENDIX

PETROLEUM PROJECTS IN GHANA

Legend

Production	
Appraisal	
Exploration	

Block	Operator	Status
Jubilee Field Project	Tullow	<ol style="list-style-type: none"> 1. Phase I: 17 wells drilled (9 Production wells, 6 water injection wells, 2 gas injection wells) (2009) 2. Construction and delivery of FPSO Kwame Nkrumah (2010) 3. Installation Hook-up and Completion of subsea infrastructure to FPSO (2010 - 2011) 4. Phase 1A: 5 out of 8 planned wells drilled (J-18, J-19, J-20, J-21, J-22) (2012) 5. Total production: inception to end of 2012 was 51,728, 261 barrels with average daily production at 68,333 bopd 6. Total volume lifted: inception to end of 2012 was 50,881,089 barrels, with average parcel size of 977,584.05 barrels 7. Ghana Group - 9 liftings, totalling 8,861,223 barrels
Saltpond Field	SOPCL	<ol style="list-style-type: none"> 1. Rehabilitation of field started (2000) 2. Remedial works successful in wells 10-1A, 2A, 5A & 6A but not in 1A and 5A 3. Wells shut-in (2005) to enable repairs by a hydraulic work-over unit 4. Post repair productions on two wells were 680 bbpd (2008) and 517 bbpd (2009) 5. Production tubing removed and inspected for damages (2011) 6. Purchase of a gas generation plant and a storage vessel to reduce operating costs 7. Annual production between 2002 - 2012 (range: 62,474.45 - 77,374.01; highest output: 213,730.16 (2008))
Tweneboa, Enyenra & Ntomme (TEN)	Tullow	<ol style="list-style-type: none"> 1. Tweneboa discovered, drilled and appraised in 2009 2. Appraisal well Tweneboa-3 and Tweneboa-3ST discovered Ntomme 3. Appraisal program for Tweneboa NAG discovery completed in August 2011 4. Appraisal program for Tweneboa oil discovery ended in February 2012 5. Enyenra discovered as a result of the exploratory well Owo-1 and Owo-1ST 6. Appraisal wells (Enyenra-2A, 3A & 4A) both encountered net oil pay

		<p>7. Enyenra 4A necessitated an extension to Enyenra-6A, which was spudded on 13th December 2012. Pressure data demonstrates oil in communication with Enyenra 2A</p> <p>8. POD submitted to sector Minister for approval</p>
Sankofa & Gye Nyame Complex	ENI	<p>1. Reprocessed an existing 264 sq km of 3D and further acquired, processed and interpreted 800 sq km of 3D data</p> <p>2. Drilled Sankofa-1 (2009), Sankofa-2 & Sankofa 2AST (2011), Sankofa East-IX and Sankofa East 2A (2012)</p> <p>3. Drilled Gye Nyame-1 (2011) and Gye Nyame 2A (2012) which was plugged and abandoned</p> <p>4. Completed appraisal and commerciality established</p>
Mahogany East, Teak & Akasa	Kosmos	<p>1. Mahogany East: Drilled Mahogany-3 (2008) , Mahogany-4 (2009), Mahogany-5 (2010) and Mahogany Deep-2 (2009) wells</p> <p>2. Drilled Teak-1 (2010), Teak-2 (2011) and Teak-3A (2011)</p> <p>3. Drilled Akasa-1 (2011)</p>
Deep Water Tano/ Cape Three Points	Hess	<p>1. Acquired 3132 sq km of 3D and 1140 sq km of 2D</p> <p>2. Drilled Ankobra-1 (2008), Paradise-1 (2011), Hickory North IX (2012), Beech -IX (2012), Almond -1 (2012), Pecan -1 and Pecan-1Z (2012), Cob-1 (2012)</p> <p>3. Undertaking post well studies</p>
Offshore Keta Block	Eni	<p>1. Drilled Cuda well in 2008</p> <p>2. Mapped out 9 prospects and developed 4 leads</p> <p>3. Drilled Nunya-IX in 2012</p> <p>4. Completed post well studies on Nunya-IX well</p>
Deep Water Tano	Tullow	<p>1. Hyedua-1 well discovered in 2007</p> <p>2. Discovery of Onyina-1, Wawa-IX & TEN Complex</p>
Cape Three Points Deep Water Block - Dzata Appraisal	Lukoil	<p>1. Drilling of Dzata-1 well completed in February 2010</p> <p>2. Dzata-1 well has been logged and temporarily abandoned</p> <p>3. Dzata 2A well was spudded and drilled in 2011. It has also been temporarily suspended</p>
West Cape Three Points - Odum	Kosmos	<p>1. Drilled Odum-1 well (2008) and Odum-2 (2009)</p>
Offshore Cape Three Points	ENI	<p>1. Acquired 850 sq km of 3D data and 7 km of 2D</p> <p>2. Drilled Asase Ye Duru-1 well (2010). Post well showed poor reservoir development</p>
Offshore Saltpond	Oranto Petroleum	<p>1. Acquired and processed 1100 sq km 3D seismic (2009) and 1200 sq km 3D (2010)</p> <p>2. Requested and was granted a one year extension which ended in July 2012</p>
South Deep Water	GNPC with AGM	<p>1. Petroleum Agreement sent to cabinet for approval before ratification by parliament</p> <p>2. GNPC acquired and processed 2600 sq km 3D data</p>

Tano		3. GNPC to assume commercial interest through joint operating company (JOC) vehicle 4. AGM Consortium to partner with GNPC in joint operatorship
Offshore Accra	Ophir	1. Acquired and processed 1200 sq km 3D data (2010-2011) 2. Reprocessed 886 sq km 3D data 3. Licensing over 1000 km of 2D data
Cape Three Points Deep Water Block	Lukoil	1. Reprocessed and interpreted 4241 sq km of existing 2D data 2. Acquired, processed and interpreted 1500 sq km data (2004 - 2006) 3. Failed to drill obligatory well by end of 7 year maximum exploratory period due to lack of rig availability 4. New Petroleum Agreement signed and ratified (2009) 5. Drilled Dzata-I (2009), Dzata 2A (2011) but is temporarily abandoned. 6. Drilled Cheetah-IX (2011)
Voltaian Basin	GNPC	1. Completed geological and geophysical studies 2. Determined 6 slim holes yet to be drilled 3. EPA permit acquired to drill 4 of the 6 slim holes
West Cape Three Points	Kosmos	1. Drilled Odum-I (2008), Odum-2 (2009) 2. Mahogany East: Drilled Mahogany-3 (2008) , Mahogany-4 (2009), Mahogany-5 (2010) and Mahogany Deep-2 (2009) wells 3. Drilled Teak-I (2010), Teak-2 (2011) and Teak-3A (2011) 4. Drilled Akasa-I (2011) 5. Drilled Banda-I (2011) 6. Drilled Dahoma-I but was plugged and abandoned 7. Drilled Makore-I (2011) but has been temporarily suspended for future re-entry

Source: GNPC

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