



## Three Years of Petroleum Revenue Management in Ghana – Transparency without Accountability

Report presented by

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### Background

- The Petroleum Revenue Management Act was passed in 2011
- There have been challenges in the implementation of the law and this has led to the Government decision to amend sections of the law.
- As Government has decided to review the law, it has become relevant to examine how petroleum revenues have been managed over the last three years to inform Government's review.
- This report synthesizes different reports issued by the Government, the Bank of Ghana, the PIAC, the Ghana EITI and ACEP's Value for Money Report. In particular, the report covers the following:
  - Analysis of data on crude oil production, petroleum receipts, expenditure from petroleum and the performance of the Ghana Petroleum Funds;
  - A review of findings from the reports outlined above and an assessment of the extent to which those findings have affected the management of petroleum revenues over the period 2011-2013;
  - A review of the extent to which Government complied with the provisions of the Act 815;
  - There is also a case study on crude oil accounting.
- In this study, we found many operational issues as well as compliance issues.

### How much revenues

Item	2011	2012	2013
Royalties – Jubilee	122,941,144	150,642,450	175,006,213
Royalties – Saltpond	0	104,193	403,276
Carried and Participating Interest	321,183,580	390,428,872	453,573,866
Corporate Income Tax	0	0	216,985,498
Surface Rentals	0	448,225	798,332
Gas Receipts	0	0	0
Total	444,124,724	541,623,740	846,767,184

### Gaps in Revenue Accounting

- From the Table, there have been a number of gaps in revenue accounting which have affected the size of expected petroleum revenues. To date, Government's forecast of petroleum revenues have either exceeded or fallen short. Some of the factors that have accounted for these gaps are:
  - Non-collection of capital gains tax on acquisitions in the Jubilee field projects
  - Non-collection of corporate taxes
  - Non-reporting on surface rental fees
  - Non-realization of expected Gas receipts
  - Redetermination of the Original Hydro Carbon in Place in the Jubilee Unit Operating Area

### Capital Gain Tax

- On 25<sup>th</sup> July 2011, Tullow announced that it had completed acquisition of the interests of EO Group Limited for a combined share and cash consideration of US\$305 million.
- The acquisition increased Tullow’s interest in the West Cape Three Points license offshore Ghana by 3.5% to 26.4% and increased the Group’s interest in the Jubilee field by 1.7% to 36.5%.
- Similarly, the acquisition of Sabre Oil and Gas Holdings Ltd. received approvals by the Governments of Ghana and South Africa in February 2012.
- However, Ghana did not receive capital gains from these assignments

### Stability Clauses are responsible for this

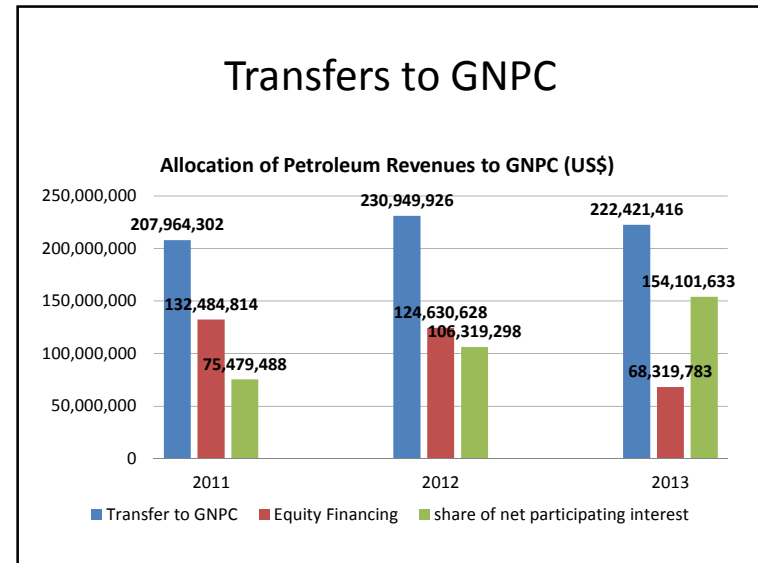
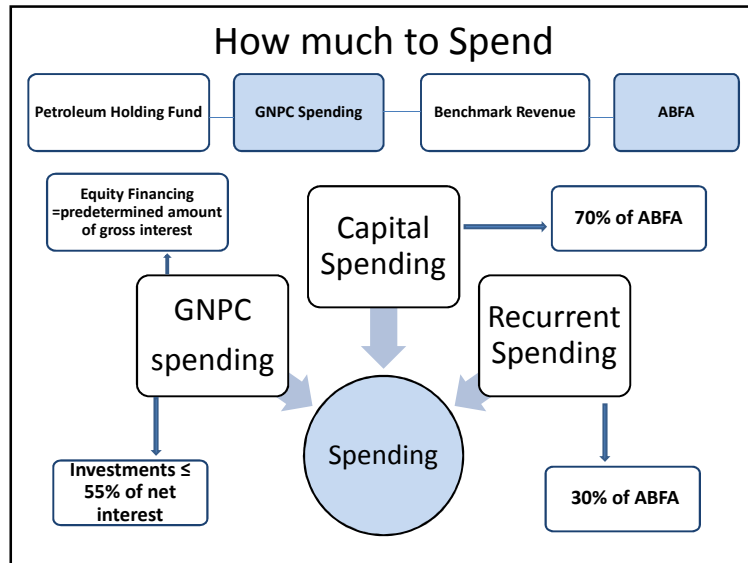
- *“Contractors shall be subject to ..... taxes, duties, fees or other imports of a minor nature and amount in so far as they do not relate to the stamping and registration of this (1) Agreement, (2) any assignment of interest in this agreement or (3) any contract in respect of petroleum operations between contractor and any subcontractors”.*
- The prohibition of capital gains tax in the Petroleum Agreement is consistent with the Petroleum Income Tax Law, 1987 (PNDC Law 188) but inconsistent with Section 95 (1) of the Internal Revenue Act, 2000 (Act 592) which fixes capital gains tax at 10% of capital gains accruing to or derived by that person from the realization of a chargeable asset owned by that person.
- Although the Act 815 provides in Section 1(2) that *“where there is any conflict between the provisions of this law and (a) any other enactment, or (b) the terms, conditions and stipulations in a petroleum authorization, on the collection, allocation and management of petroleum revenue, the provisions of this Act shall prevail”*

### Corporate Tax Projections

Year	CIT - Budget	CIT - Actual	ABFA	GPF
2011	402,509,557	0	166,955,067	69,205,354
2012	239,709,791	0	286,554,461	24,119,354
2013	55,861,240	216,985,498	273,197,567	351,048,145

### Redetermination

- The exercise of redetermination is provided for in the Jubilee Field Unitization and Unit Operating Agreement (UUOA).
- In October 2011, the Jubilee partners completed the first equity redetermination in the contract area effective from 1<sup>st</sup> December 2011.
- Thus, tract participation of the Jubilee Field’s Original Hydrocarbon in Place (OHIP) was realigned from a ratio of 50% each from the Deep Water Tano and West Cape Three Point Blocks, to a ratio of 45.63340% for the Deep Water Tano Block to 54.6660% for the West Cape Three Point Block.
- Accordingly, this affected the interests of all the partners including the Government of Ghana’s interest which reduced marginally from 13.75% to 13.64%.
- In this case, crude oil lifting by Ghana for the 2012 reporting year declined and this had implications for the size of petroleum revenues to the Government.



### GNPC Use of its Revenues

RECEIPTS FROM JUBILEE PROCEEDS	2011	2012 (US\$)	2013 (US\$)
Equity Financing	132,484,815	124,630,628	68,319,783.18
40% of Net Carried and Participating Interest	75,479,488	106,319,298	154,101,633.02
<b>Total Amount Received</b>	<b>207,964,303</b>	<b>230,949,926</b>	<b>222,421,416.20</b>
<b>Expenditure</b>			
Jubilee Equity Financing Cost	<b>132,484,815</b>	<b>125,824,747</b>	76,268,194.80
Acquisition & Processing of 2,612sq km of 3D plus other related G&G studies	30,315,185		
Reservoir Characterization; Voltaian Basin project exps; ICT Upgrade & Organizational Development		10,784,028	
Commitments for Projects other than Jubilee		<b>61,674,215</b>	9,922,975.26
TEN Project Cost			3,027,153.21
Gas Project-Related Costs	28,119,624	5,587,779	
Staff Cost	7,661,475	9,013,162	9,695,076.70
General Operational & Admin. Capital expenditure	9,383,204	16,269,839	9,819,888.5
PNB Paribas			31,337,309.53
Amount Appropriated by Bank of Ghana as charges		1,796,156	2,323,269.07
<b>Total Expenditure and Commitments</b>	<b>207,964,303</b>	<b>230,949,926</b>	<b>142,393,867.06</b>
<b>Cash yet to spent</b>			<b>80,027,549.14</b>
<b>Cash brought forward (01.01.2013)</b>			<b>61,674,215</b>
<b>Total Cash Available</b>			<b>141,701,764.14</b>

### GNPC Commitment to projects

No	Project	2012 (US\$)	2013 (US\$)
1	North & South Tano Petroleum Projects	17,817,385	1,267,581
2	Tweneboa-Enyenra-Ntomme (TEN) project	16,736,362	
3	Voltaian Basin Petroleum Projects	3,090,224	1,305,036
4	South Deepwater Tano Petroleum Projects	7,227,672	1,894,356
5	Reservoir Characterisation	687,506	294,728
6	ICT Upgrade & Expansion	2,591,094	154,006
7	Data Centre Upgrade	1,000,000	
8	R&D Laboratory Upgrade	1,500,000	39,994
9	Organisational Development Project	2,102,500	44,189
10	<b>Reserves towards Corporate Investment Projects</b>	<b>8,921,473</b>	
11	Hess Block		3,024,781
12	Ultra Deep Water Keta		411,948
13	Petroleum Project Consultancy		332,220
14	Maritime Boundary Special Project		1,154,134
15	<b>Total Commitment to Projects</b>	<b>61,674,215</b>	<b>9,922,975</b>

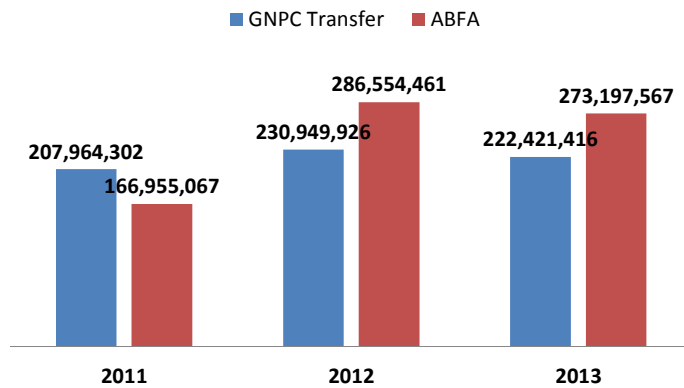
### Financing Advances from Jubilee Partners

Jubilee Cost	Bal End of 2010	Additions 2011	Total Cost	Interest	Int. (%)	Total Cost & Int.	GNPC Payment	Closing Bal 2011
Production Cost	4.64	15.85	20.49	0.59	3%	21.08	21.08	
Development Cost	99.09	44.78	143.87	14.58	10%	158.45	111.41	
Total	103.73	60.63	164.36	15.17	9%	179.53	132.48	47.05
FPSO Cost								(13.74)
Jubilee Partners								33.31

### Other Issues of Concern

- An amount of US\$31 million was spent out of the 2013 allocation for repayment of a facility from PNB Paribas. However, there is no publicly available information on the terms of the facility and what it was used for.
- GNPC has not yet provided detailed information on the utilization of US\$8,921,473 reserved since 2012 for corporate investment projects. It is suspected part of this money went into the sponsorship of the Ghana Black Stars preparation and participation in the 2014 World Cup in Brazil. The sponsorship also allegedly covered some 40 staff workers of GNPC and their families who were sent to Brazil to watch the tournament. GNPC has denied this and argued that the 40 staff workers travelled on a charter plane without their families; and that the families of their workers joined them on a commercial flight which was not sponsored according to a statement issued by the corporation. The statement also states that the workers were in Brazil to promote its brand.
- MyjoyOnline.com "GNPC denies sponsoring staff and families to Brazil", 7<sup>th</sup> July 2014 (cited at <http://www.myjoyonline.com/news/2014/july-7th/gnpc-denies-sponsoring-staff-and-families-to-brazil.php>)

### Oil Investment versus Social Investment



### Distribution of ABFA

Item	2011 (GHC)	2012 (GHC)	2013 (GHC)
Expenditure & Amortization of Loans for Oil and Gas Infrastructure	20,000,000	100,000,000	119,878,695
Road and Other Infrastructure	227,641,768	232,403,269	142,344,388
Agriculture Modernization	13,147,652	72,471,824	4,599,688
Capacity Building (Including Oil and Gas)	750,000	111,959,738	32,583,053
<b>Total</b>	<b>261,539,420</b>	<b>516,834,831</b>	<b>299,405,824</b>

### Irregularity – Financing Ghana Gas from ABFA

- This component was allocated to the Ghana National Gas Company (GNGC) for the capitalization of the new company.
- The Government explained that between 2011 and 2012
  - A total amount of GH¢69 million was allocated to GNGC as an initial set up capital.
  - In addition to this, Government as at September 30, 2013, disbursed US\$89.8 million as part of the US\$150 million counterpart funding for the China Development Bank (CDB) loan of US\$3 billion for the finance of the Ghana Gas Infrastructure Project at Atuabo in the Western Region of Ghana.
  - In the 2014 allocation of ABFA, Government further allocated US\$114 million to Ghana Gas Infrastructure Project.

### Issues of Concern

- in Section 7(2) of Act 815.
- *“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 of barrels of oil that shall be ceded to the national oil company out of the carried and participating interest interests recommended by the Minister and approved by Parliament”*
- National Oil Company is defined as *“Ghana National Petroleum Corporation and any other national oil or gas company that may be established by the government”*
- Therefore the use of National Oil Company has been limited to GNPC. For the period 2011-2013, the allocation of these funds have been made by the Minister to only GNPC.
- Ghana Gas has therefore been funded from ABFA.
- It is therefore not surprising that GNPC has not been able to spend US\$141,701,764.14 of the total cash allocated to it in 2012 and 2013.

### Issues of Concern

- Overpayment of counterpart funds on Ghana Gas Infrastructure Project
  - Total counterpart fund for the project 15% of the facility (US\$850 million) which is about US\$127.5 million
  - By the beginning of 2014, a total of US\$205 was paid/allocated for this purpose.
  - Government must explain this over-payment.

### Allocation of ABFA to MDAs – Spreading too thin

SECTORS	ABFA 2012 (16)	ABFA 2013 (15)
Office of the President	65,000,000	20,000,000
Parliament of Ghana	5,000,000	
Finance and Economic Planning	9,000,000	28,850,000
local government	15,000,000	5,000,000
Food & Agriculture	53,000,000	20,000,000
Lands & Natural Resources	33,840,000	
Trade & Industry	13,040,610	5,000,000
Envir, Science & Technology	25,000,000	300,000
Tourism and Culture		<b>5,000,000</b>
Energy	130,000,000	130,000,000
Water Resources, Wrks & Housing	21,000,000	59517043
Roads and Highways	40,000,000	100,000,000
Transport	70,000,000	4 0,000,000
Education	20,000,000	1 0,000,000
Health		2 9,900,000
Employment & Social Welfare	10,000,000	300,000
Youth & Sports	22,000,000	
Interior	25,000,000	2 3,000,000
<b>MDA Total</b>	<b>536,000,634</b>	<b>470,650,000</b>

### Spreading Too Thin

Name of Project	2011	2012	2013
Upgrading of Sefwi Bekai-Eshiem-Asankragwa Road	54%	67.9%	
Reconstruction of Asankragua-Enchi Road	91%	78%	94%
Emergency Rehabilitation works on Dansoman main road	97%	100%	100%
Rehabilitation of Anyinam-Konongo Road, Nkawkaw by-pass (Adden No.2)	97%	99%	100%
Partial Reconstruction of Bomfa Junction-Asiwa and Bewai-Ampaha Asiwa Road (36.2km)	64%	68.8%	
Upgrading of Tainso-Badu-Adentia Road	90%		
Reconstruction of Berekum-Sampa Road (Km32-88)	84%	78.3%	
Construction of Kpando-Worawara Dambai Road Phase III (70km)	65%	71.1%	
Emergency works on the upgrading of Ho – Adidome and Adaklu Xelekpe-Aduadi Road	44%	55%	
Construction of Twifo Praso-Dunkwa Road	4%	14%	
Construction of steel bridge over river Amunam and over River Kakum on Kwaprow-Ankaful Road	99%	100%	100%
Reconstruction of Navrongo-Tumu Road	38%	60%	
Construction of Wa-Han Road (30km)	18%	15.2%	
Construction of Bamboi-Bole road (Bamboi-Tinga Section)	97%	100%	100%
Accra-Kumasi Highway Dualisation Project: Kwafokrom – Apedwa Section	45%	54%	68%
Reconstruction of Sunyani Road in Kumasi (Sofoline Interchange)	72%	70%	80%

### Costly Extensions – a case Study of Navrongo-Tumu Road



- Awarded in 2010 with a schedule completion in April 2013 but was about 60% complete as at June 2013.
- The base of the total 25km stretch was done, with prima on 14km. -11km of the 14km was first sealed.
- The contractor indicated that it needed an additional year
- Blamed on irregular payments and weather conditions

### Spreading too thin

Agency	Activity	Year	Amount	Projects
Ghana Highway Authority	Upgrading and Reconstruction	2013	GHS48 mil	63 (2135km)
Urban Roads	Payment of Arrears	2013	GHS9.6 mil	Arrears

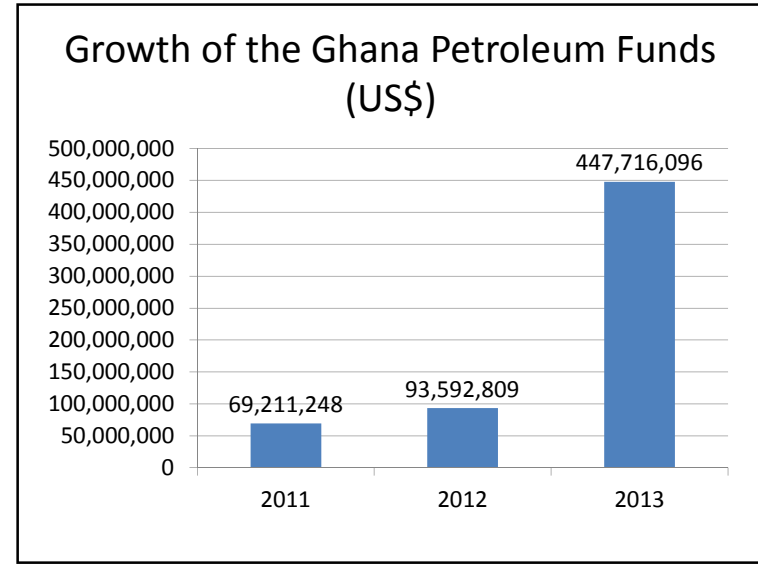
Source, 2013 Budget Statement

### A change in spending regime?

- Para 171. “The 2014 ABFA expenditure will be devoted to only a few capital projects to increase efficiency and effectiveness. To this end, Government has decided to deploy the ABFA for the development of six projects in the medium term and, to clear pipeline infrastructure projects”

### Allocation of ABFA to MDAs – Spreading too thin

SECTORS	ABFA 2012 (16)	ABFA 2013 (15)	ABFA 2014 (6)
Office of the President	65,000,000	20,000,000	
Parliament of Ghana	5,000,000		
Finance and Economic Planning	9,000,000	28,850,000	
local government	15,000,000	5,000,000	
Food & Agriculture	53,000,000	20,000,000	136,420,759
Lands & Natural Resources	33,840,000		
Trade & Industry	13,040,610	5,000,000	59,574,431
Envir, Science & Technology	25,000,000	300,000	
Tourism and Culture		<b>5,000,000</b>	
Energy	130,000,000	130,000,000	430,951,887
Water Resources, Wrks & Housing	21,000,000	59517043	
Roads and Highways	40,000,000	100,000,000	139,413,241
Transport	70,000,000	4 0,000,000	30,089,468
Education	20,000,000	1 0,000,000	103,510,325
Health		2 9,900,000	
Employment & Social Welfare	10,000,000	300,000	
Youth & Sports	22,000,000		
Interior	25,000,000	2 3,000,000	
<b>MDAs Total</b>	<b>576,888,674</b>	<b>476,667,043</b>	<b>898,860,444</b>



### Effect of ABFA on Petroleum Funds – Case of Selective Interpretation of the Law

- **Interpretation 1**
- Parent clause: Section 18(1) of the Act 815:
- *“The Annual Budget Funding Amount from petroleum revenue shall not be more than seventy percent of the Benchmark Revenue”.*
- *Consistent with this, the total ABFA will be 70%, Ghana Petroleum Funds 30%, the Ghana Stabilization Fund (21%) and the Ghana Heritage Fund (9%)*
- **Interpretation 2:**
- Operational clause: Section 23(1)a which provides as follows:
- *“Where petroleum revenue collected in each quarter of any financial year exceeds one-quarter of the Annual Budget Funding Amount of the financial year ... the United States Dollar equivalent of the **excess** revenue collected shall be transferred from the Petroleum Holding Funding to the Ghana Petroleum Funds”*

### Effect of ABFA on Petroleum Funds – Case of Selective Interpretation of the Law

Quarter	US\$		
	Budget	Actual	Deviation
Quarter 1	95,879,065	59,823,532	(36,055,533)
Quarter 2	95,879,065	95,879,065	0
Quarter 3	95,879,065	64,909,263	(30,969,802)
Quarter 4	95,879,065	65,942,600	(29,936,465)
<b>Total</b>	<b>383,516,261</b>	<b>286,554,461</b>	<b>(96,961,800)</b>

### Effect of ABFA on Petroleum Funds – Case of Selective Interpretation of the Law

Allocations	Interpretation 1		Interpretation 2			
	2011	% B. Rev	2012	% B. Rev	2013	% B. Rev
Total Allocation of Petroleum Receipts	444,124,724		541,623,740		846,767,184	
Transfer to GNPC	207,964,302		230,949,926		222,421,416	
Benchmark Revenue	236,160,421		310,673,815		624,345,768	
<b>o/w ABFA</b>	<b>166,955,067</b>	<b>70%</b>	<b>286,554,461</b>	<b>92%</b>	<b>273,197,567</b>	<b>44%</b>
<b>o/w Transfers to GPFs</b>	<b>69,205,354</b>	<b>30%</b>	<b>24,119,354</b>	<b>8%</b>	<b>351,048,145</b>	<b>56%</b>

### Spending the Ghana Stabilization Fund

- Government viewed the interpretation of the law in 2013 as providing more money for savings against spending and therefore expressed its desire to go back to the first interpretation.
- “Mr. Speaker, the Annual Budget Funding Amount (ABFA), which is 70 percent of the net GOG petroleum receipts, amounted to US\$204.90 million (GH¢392.94 million) with the Ghana Heritage Fund (GHF) and the Ghana Stabilization Fund (GSF), which constitute the Ghana Petroleum Funds (GPFs), receiving US\$316.09 million. **This is due mainly to the interpretation given to “excess” in the PRMA.**
- “It is instructive to note that by end-September 2013, the GSF alone had received more inflows than the ABFA”
- “Mr. Speaker, ...the spirit of the PRMA was to transfer 70 percent, 21 percent and 9 percent of the net petroleum receipts to the ABFA, GSF and GHF, respectively.”. **Back to the first interpretation?**

### Spending the Savings from the Ghana Stabilization Fund – Arbitrary Cap?

- Section 23(3&4) of Act 815
- The Minister shall determine a maximum cap on the Ghana Stabilization Fund approved by Parliament. Any excess over the cap shall be transferred to the Contingency Fund or used for debt repayment.
- To stop more money going to the Ghana Stabilization Fund, the Minister triggered the cap. The cap was fixed at US\$250 million without any basis.

Item	2011	2012	2013	Total
ABFA - Budget	400,000,000	383,516,261	273,197,567	1,056,713,828
ABFA - Actual	166,955,067	286,554,461	273,197,567	726,707,095
ABFA - Shortfall	233,044,933	96,961,800	0	<b>330,006,733</b>
Bal in GSF before Cap	54,810,032	71,898,588	319,034,153	<b>445,742,773</b>
Cap				<b>250,000,000</b>

### Spending the Savings from the Ghana Stabilization Fund – Arbitrary Cap?

- The cap of US\$250million out of the balance of US\$445.7 million made it possible for the Minister of Finance to spend US\$195 million.
- US\$50 million of the US\$195 went to the Contingency Fund
- US\$145 million went to the Debt Service Account.



## Petroleum Revenue Transparency

- Transparency Issues
- Government and other agencies have complied with the transparency requirements of the Law.
  - Quarterly reporting on production, prices, revenues
  - Annual reporting on petroleum receipts and allocations
  - Annual Reconciliation on the Ghana Petroleum Holding Fund
- Bank of Ghana has been issuing its semi-annual reports on the Ghana Petroleum Funds
- PIAC has been has issued 2 semi-annual & 2 annual reports out of 3 required by law.

## Accountability

- Accountability Issues
  - Government data on expenditure was aggregate for 2011-2013
  - Status of projects funded from oil revenues are not published
  - Audit of the Ghana Petroleum Holding Fund has not been conducted over the 2011-2013
  - PIAC has fallen short of its reporting requirements. Public Hearings have been lower than required. Largely blamed on budget constraints
  - GNPC accountability – Audited report on GNPC on the use of petroleum revenues has not been conducted.
  - Ghana EITI is in deficit of 2 years on its reconciliation report on petroleum receipts and payments
  - Royalty from Saltpond operations in 2011 and generally surface rentals although received by Government were not credited to the Ghana Petroleum Holding and has since not been reconciled.

## Main Findings

- Ghana could have earned more from oil than it has done so far as a result of factors - non-collection of capital gains tax, non-reporting on surface rental fees, non-realization of expected Gas receipts and redetermination of the Original Hydro Carbon in Place in the Jubilee Unit Operating Area.
- The GNPC has weak spending capacity and some of the uses to which the corporation applied revenues ceded to it requires more explanation.
- There is demonstrated evidence of inefficiency in the use of petroleum revenues. Limited revenues have been thinly distributed over projects leading to over-run times and over-run cost.
- Furthermore, the Government of Ghana has exploited weaknesses in the Petroleum Revenue Management Act to increase its spending of petroleum revenues meant for savings in the Stabilization Fund.
- Generally there is improved transparency in petroleum revenue management but accountability remains a challenge.

## Recommendations

- Ghana should apply both the Petroleum Income Tax Law, 1987 (PNDC Law 188) and the Internal Revenue Act, 2000 (Act 592) in the oil industry. This calls for urgent harmonization of the tax laws to ensure Ghana maximizes revenues from the oil industry.
- In approving GNPC's allocation Parliament must seek evidence of efficient spending of previous allocations as a condition. Similarly, the allocation of revenues to the Ghana National Gas Company should reverse from the Annual Budget Funding Amount to ceded revenues for the use of Ghana's national oil companies as prescribed in the law. However, like GNPC, Parliament must amend Act 815 to include a provision that requires GNPC to also submit its annual programmes to Parliament.
- The use of petroleum revenues should be guided by development priorities, whilst project selection should be determined by the size of expected petroleum revenues and the extent to which those projects can add value to the economy. Government is encouraged to expedite the submission of the proposed Public Investment Management Bill to Parliament to pass into law, as it has great potential to address problems associated with project selection, timely delivery of projects and quality assurance.
- The determination of the maximum cap on the Ghana Stabilization Fund should not be arbitrary. It should be based on benchmarks that help maintain strong liquidity of the Fund to enable it address the volatility effects of petroleum crude oil prices. This requires an amendment to Act 815. Also, any excess revenue over the cap should be applied to repaying debts that are specific and which have been evaluated to have greatly impacted on development.
- Accountability institutions like the Auditor General, PIAC and Parliament should be supported with capacity and financial resources to effectively execute the mandate provided them by the Law.

