



Ghana's big test: Oil's challenge to democratic development



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Cover image: A girl sits on an adult's shoulders to get a better view as she waits in a crowd prior to the ceremony held for the inauguration of Ghana's new President John Atta Mills in Accra, Ghana Wednesday, Jan. 7, 2009. The election of Mills, in the closest vote in Ghana's history, makes the West African nation one of the few African countries to successfully transfer power twice from one legitimately elected leader to another. *AP Photo / Olivier Asselin*

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Notes and acknowledgments

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Executive summary

During the British colonial era, Ghana was known as the “Gold Coast” for its prolific gold deposits. Now, as in many countries before it, Ghana’s recent discovery of a major offshore oil field has created a mixture of exuberance and trepidation.

For Ghana, one of the most peaceful and relatively prosperous countries in West Africa, the start of oil production in late 2010 would seem to come as good news. With the peaceful transition of power from the New Patriotic Party (NPP) government to the National Democratic Congress (NDC) government in 2009, Ghana hopes that its star will continue to shine and that oil revenues will help accelerate the country’s effort to meet the UN Millennium Development Goals by 2015. But, as so many other countries have shown, it is a difficult and tortuous journey to move from the generation of oil wealth to its proper investment. In too many other countries, oil booms have bred corruption, underdevelopment, social conflict, and environmental damage.

The onset of oil production presents Ghana with its next great test. Ghana has an enviable record of good governance and stability. Despite this progress, Ghana is still a poor country of 23 million people dependent largely on primary commodity exports – cocoa, gold, timber. Almost 80 percent of Ghanaians live on less than \$2 a day. The country has made some progress on economic diversification, but oil could add to the economy’s overreliance on commodity exports subject to price swings that make development planning difficult.

Billions of dollars will flow into the government treasury, but Ghanaians are all too familiar with corruption, poor development outcomes in the country’s mining communities, and the tragedy of Nigeria’s squandered oil wealth. For the international oil industry, the 2007 “Jubilee” find – called one of the largest recent finds in Africa – has generated enormous interest in the country’s hydrocarbons potential. By 2011, estimates are that Ghana will be producing approximately 120,000 barrels of oil per day, along with

significant quantities of gas. The International Monetary Fund has predicted that government revenues from oil and gas could reach a cumulative US\$20 billion over the production period of 2012–30 for the Jubilee field alone.

Oil wealth tends to erode democratic accountability. Ghana’s challenge will be to ensure that the right institutions and transparent policies are in place before oil production starts. The previous NPP government launched a “homegrown” effort to tackle the challenges of the oil era, establishing technical committees composed of government staff and expatriate Ghanaians to address issues from the fiscal regime to gas utilization. The state oil company, the Ghana National Petroleum Corporation, has made some disclosures to the public, but key details remain secret, including the oil contracts as well as the development plan for the Jubilee field. While the NPP government put forward transparency and good governance as key principles for the sector, it sent worrying signals as well – for example, a National Forum on Oil and Gas Development was by invitation only and included just three civil society members.

While a draft policy paper and national regulatory authority bill were developed in 2008, many significant steps in building the institutional, legal, and regulatory system to govern the oil and gas sector rest with the new government. Since there will be a relatively short time frame for oil production – likely 20–30 years – it will be important to ensure that money is used wisely from the outset and that investments are sustainable once the money runs out.

The needed institutions, regulations, and transparency measures should be in place early on to avoid the corrosive and corrupting effects of oil booms seen elsewhere in Africa. Because the Jubilee field is in development, the government does need to move at deliberative speed to be able to manage this large project. At the same time, Ghana needs to be careful to *control the pace* of the development of the petroleum sector so as to not let commercial developments outstrip the capacity of the government and society as a whole to meet the myriad challenges.

In many ways, speed is not Ghana’s friend. Ghana should set its own timetable for the further development of the petroleum sector. By moving quickly, mistakes can be made that could decrease Ghana’s “take” from the sector and undermine accountable management of the resource. A few examples:

- Government will need to **sequence tasks** in developing the laws, regulations, and institutions for the sector.
- Rather than negotiating many deals at once, government can learn from experience and **negotiate better deals over time**. A common refrain is “he who drafts, wins,” and Ghana can develop improved negotiation skills over time.
- **Allowing for civic participation** takes time but will benefit the country in the long run through better policy decisions and greater ownership of these decisions. The attitude that “there is too much to do and talking to civil society takes time” is ultimately counterproductive.
- **Regulations need to be in place before the impact**. Social and environmental regulations and protections need to be in place before projects get

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under way rather than after, as was the case with many gold-mining projects. Because of stabilization clauses, contracts signed now will lock in the currently deficient regulatory regime. Ghana should not want to license all of its petroleum acreage before the regulatory framework is in place.

- **Early spending could be bad spending.** If Ghana's budget and spending systems need improvement, massive early spending of oil money could prove to be wasteful spending.

Ghana's oil boom is happening in an era of increased attention to the problems of resource-rich states, and Ghana has important opportunities to learn from the positive and negative examples of others. This report makes extensive recommendations for the government, companies, donors, and others. **(See full recommendations on page 53.)** There are steps these actors should take to support the transparent, accountable, and efficient development of Ghana's oil wealth. For example, the government of Ghana should ensure that payments from companies to the government, as well as contracts, are in the public domain. The government should also enact a moratorium on new exploration licenses to allow Ghana's legal and regulatory framework, and institutional development process, to catch up. Companies should volunteer to disclose their payments and contracts and participate in Ghana's Extractive Industries Transparency Initiative. In exchange for technical assistance project finance, donors should insist on full transparency and participation of citizens and civil society in the decisions regarding the development of the petroleum sector and oversight of natural resource wealth.

While these steps – and many others in the full set of recommendations – are not, by themselves, a simple recipe for overcoming the threats posed by the coming oil boom, it is difficult to see Ghana succeeding without them.

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Introduction: Ghana and the “paradox of plenty”

During the British colonial era, Ghana was known as the “Gold Coast” for its prolific gold deposits. Now, as in many countries before it, Ghana’s recent discovery of a major offshore oil field has created a mixture of exuberance and trepidation. Billions of dollars will flow into the government treasury, but Ghanaians are all too familiar with corruption and the tragedy of Nigeria’s squandered oil wealth.

Ghana’s former president, John A. Kufuor, has said that the country’s new “black gold” will be the boost that Ghana needs to become an “African tiger.” During the euphoric days of June 2007 when the oil discovery was announced, President Kufuor said: “Oil is money, and we need money to do the schools, the roads, the hospitals. If you find oil, you manage it well, can you complain about that? Even without oil, we are doing so well, already. Now, with oil as a shot in the arm, we’re going to fly.”¹ Meanwhile, Ghana’s citizens often voice concern that oil will lead to increased corruption and do little for poor people, pointing to the sorry state of mining communities in Ghana as well as oil-rich but dirt poor communities in neighboring Nigeria.

For the international oil industry, the find—called one of the largest recent finds in Africa—has generated enormous interest in the country’s hydrocarbons potential, and Ghana has reportedly received more than 40 applications for oil exploration blocks since the announcement of the offshore Jubilee field. With more and more of the world’s oil locked up or controlled by state-owned companies, the potential of a new “frontier” zone has created enormous excitement for oil companies, some of whom are depleting their reserves faster than they can replace them with new finds.

For Ghana, one of the most peaceful and relatively prosperous countries in West Africa, the start of oil production in late 2010 would seem to come as good news. Ghana hopes that its star will continue to shine and that oil revenues will help accelerate the country’s effort to meet the UN Millennium Development Goals (MDGs) by 2015. But, as so many other countries have

shown, it is a difficult and tortuous journey to move from the generation of oil wealth to its proper investment. In too many other countries, oil booms have bred corruption, underdevelopment, social conflict, and environmental damage.

Therefore, the onset of oil production presents Ghana with one of its greatest tests. Ghana has an enviable record of good governance and stability. However, oil wealth tends to erode democratic accountability. Ghana's challenge will be to ensure that the right institutions and transparent policies are in place before oil production starts.

Report objectives

This Oxfam America briefing paper has the following objectives:

- To raise the international profile of the Ghanaian oil boom and the threats and opportunities this boom poses to the country's efforts at achieving the UN MDGs;
- To highlight for Ghanaians, especially civil society groups, journalists, parliamentarians, and concerned citizens, as well as those in the international community, key facts regarding the coming oil boom and key institutional, policy, and governance challenges, given the Ghanaian context and the experience of other developing country oil producers;
- To contribute to the policy debate in Ghana as to the appropriate steps for the new presidential administration to take;
- To influence the policies and practices of Ghana's key international partners, including donors such as the World Bank, the International Monetary Fund (IMF), Britain, the US, Norway, Germany, and others;
- To make recommendations for the Ghanaian government, donors, oil companies, and others.

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The "Black Star of Africa"

Ghana has traditionally been hailed as the "Black Star of Africa" for its early attainment of independence in 1957. After decades of misrule and mismanagement by weak civilian regimes and military governments, Ghana held democratic elections in 1992 and since that time has enjoyed 16 years of civilian rule, including a peaceful transition from the National Democratic Congress (NDC), the party of former military ruler Flt. Lt. Jerry J. Rawlings, to the New Patriotic Party (NPP) in 2000. Ghana's fifth democratic elections in a row were held on Dec. 7, 2008, and after a run-off, the opposition NDC returned to power with a wafer-thin margin in the presidential contest and a majority of parliamentary seats. Managing Ghana's transition to becoming a notable oil producer will be a key challenge for the new administration.

Ghana is widely seen by donors and others as a "model country" in terms of macroeconomic and political stability, investor friendliness, good governance, and efforts to reduce poverty, and it has received billions in donor

assistance and debt relief over the past two decades. The World Bank calls Ghana “one of the best performing economies in Africa” and the US signed a Millennium Challenge Account Compact with Ghana in 2007 worth \$547 million.² Ghana successfully completed an IMF Poverty Reduction and Growth Facility in October 2006. Ghana has received generally high marks from international monitors for the quality of its elections. Ghana also has a vibrant civil society sector and a thriving independent media sector. (Independent radio stations have popular call-in programs debating key public policy issues.)

In the 2008 budget statement, the minister of finance pointed to a number of achievements:³

- The gross domestic product (GDP) growth rate of 3.7 percent in 2000 increased to 6.3 percent in 2007 (and the IMF expected this to remain strong at 6.5 percent during 2008).
- Inflation was brought down from 40.5 percent in 2000 to 10 percent in 2007 (although it rose to 16 percent in 2008).⁴
- The Ghanaian currency, the cedi, has stabilized against major currencies.
- External debt was cut from \$6.3 billion in 2000 to \$2.6 billion in 2007.
- Ghana became the second Sub-Saharan African country to raise money on the international bond market with a \$750 million Eurobond sale in September 2007.⁵
- Ghana has become one of the third world countries to achieve the MDG of cutting extreme poverty by half ahead of the scheduled date of 2015.

The World Bank says that “overall poverty has declined from 52 percent in 1992 to 28 percent in 2006, and Ghana is on course to exceed the 2015 MDG of halving her poverty,” while in Sub-Saharan Africa overall, there has been no comparable decline in the poverty rate.⁶

Regarding governance, Ghana scores above the 50th percentile in the World Bank Institute’s Worldwide Governance Indicator rankings and has been making steady progress in these rankings over the past decade. (The rankings cover issues such as the rule of law, government effectiveness, regulatory quality, and “voice and accountability.”⁷) Ghana does far better on all six indicators than its resource-rich neighbors in Africa, such as Nigeria, Angola, Cameroon, and Chad. Only Botswana and South Africa slightly outrank Ghana among resource-rich countries. On corruption, Ghana ranks 67 out of 180 countries ranked in Transparency International’s Global Corruption Report 2008. Only Botswana, South Africa, and Namibia outrank Ghana in this table. The bottom of the table is populated by many oil- and mineral-rich countries such as Chad, Angola, Equatorial Guinea, and Congo-Brazzaville.

Despite this progress, Ghana is still a poor country of 23 million people dependent largely on primary commodity exports – cocoa, gold, timber. The country’s Gross National Income per capita is \$590, with about 78.5 percent of the Ghanaians living on less than \$2 a day. Life expectancy is 59.1 years, and the infant mortality rate is 112 deaths per 1,000 live births.⁸ Regional income disparities abound, with those in rural areas and the northern

Despite some notable progress, Ghana is still a poor country of 23 million people dependent largely on primary commodity exports—cocoa, gold, timber.

part of the country not experiencing as much reduction in poverty. According to the UN Development Program's "Ghana Human Development Report 2007," 45 percent of those living in the rural savannah area of northern Ghana lived in extreme poverty in 2006, compared with 5.4 percent in Accra, the capital, and a national rate of 18 percent.⁹ The same report says the income inequality worsened between 1998 and 2006. Opposition candidates have jumped on these figures and claimed that Ghana's stability and economic growth have left many behind. "This has been a period of increasing corruption and a broadening gap between rich and poor. For most people, progress has been an illusion," says James V. Gbeho, a senior official with the NDC party and a foreign minister during the 1990s.¹⁰

Ghana has made some progress in trying to diversify its economy, building on an English-speaking population and investment in information technology infrastructure to attract data processing and service industries, and the country is rapidly increasing its tourism receipts. Ghana has also benefited from being an island of stability in West Africa, attracting the regional offices of multinational companies. At the same time, the IMF has warned that in the last year fiscal spending has increased. "The economy is experiencing demand pressures that are causing macroeconomic imbalances and increasing risks to external stability; high twin fiscal and external account deficits have emerged and inflation has risen."¹¹ With presidential elections in December 2008, government spending discipline relaxed, with a growing wage bill and subsidies. An energy crisis has hampered industrial growth, and Ghana is vulnerable to external shocks because of its total dependence on imported oil and because of price swings for export commodities.

Can extractive industries help Ghana "to fly"?

Ghana is no stranger to extractive industries or development strategies built on primary commodity exports. Ghana is the second-largest gold producer in Africa – during the era of British colonialism it was called the "Gold Coast" – and the country also produces bauxite, manganese, and diamonds. A large part of the rural population depends on cocoa production and exports to earn a living. Timber is also an important export. With the arrival of oil, some are concerned that this could hamper and not aid development strategies that are working to move away from a primary commodity approach.

Ghana has been an important gold producer for decades, and mineral-led development and policy changes designed to encourage investment in the sector have been heavily promoted by the World Bank. With mining law reforms – including revisions to the Mining and Minerals Law in 2006 – and changes to investment rules in the past 20 years, Ghana has recently experienced a boom in mining investment. In 2007, Ghana produced almost 2.5 million ounces of gold.¹²

This increase in investment and production has yielded relatively little in government revenues and local development, engendered increased conflict between companies and local communities, caused the removal of families from their lands, and increased environmental degradation. A study by the World Bank's Operations Evaluation Department in 2003 found that

it was “unclear what [gold mining’s] true net benefits are to Ghana.” This was after the World Bank had heavily promoted mineral-led development for Ghana and prior to the World Bank’s large investment in the Newmont Ahafo Gold Mine in 2005.¹³ The report went on to add:

Large-scale mining by foreign companies has a high import content and produces only modest amounts of net foreign exchange for Ghana after accounting for all its outflows. Similarly, its corporate tax payments are low, due to various fiscal incentives necessary to attract and retain foreign investors. Employment creation is also modest, given the highly capital intensive nature of modern surface mining techniques. Local communities affected by large-scale mining have seen little benefit to date in the form of improved infrastructure or service provision, because much of the rents from mining are used to finance recurrent, not capital, expenditure. A broader cost-benefit analysis of large-scale mining that factors in social and environmental costs and includes consultations with the affected communities needs to be undertaken before granting future production licenses.¹⁴

According to the Ghana Chamber of Mines, a reported \$53.8 million was paid in royalties to the Ghanaian government by all mining companies in 2007.¹⁵ A report under the Ghana Extractive Industries Transparency Initiative (EITI)—reconciling reported government receipts and reported company payments, including royalties, dividends, corporate taxes, etc.—showed a total of 40,635,725 Ghanaian cedis, or approximately \$34.8 million in 2005.

A 2008 World Bank report says that Ghana lacked the capacity to properly collect revenues and audit payments from gold-mining companies during the past three years as gold prices more than doubled. The result has been that “increases in metal prices mainly translate into benefits for operators. Improving mining sector revenue management is key to translate mining investment in Ghana into sustainable development outcomes.”¹⁶

It is unclear whether the relatively small amounts of mining revenue offset the social and environmental costs to communities and the country. Communities have complained of pollution and cyanide spills that spoil the environment and contaminate water sources.¹⁷ One recent report estimated that environmental costs from gold mining had reached 6 percent of GDP.¹⁸ Meanwhile, conflicts between community members and mining companies have increased. Ghana’s human rights ombudsman, the Commission on Human Rights and Administrative Justice, issued a report in September 2008 following over a year of investigative fieldwork. The report concluded that:

... [there] is evidence of widespread violations of human rights of individual members of communities and communities’ collective rights in some mining areas in the country. ... The Commission found evidence to conclude that there has been widespread pollution of communities’ water sources, deprivation and loss of livelihoods. Several examples of excesses by the security agencies and the security contractors of the mining companies were provided and documented. Some of these excesses had resulted in serious injuries and were sometimes fatal. It appears most people living in mining communities in Ghana believe that the right to development remains an empty promise to them even though the UN General Assembly officially recognized this right in a Declaration over two decades ago.¹⁹

Gold mining investment and increased production has yielded relatively little in government revenues and local development, engendered increased conflict between companies and local communities, caused the removal of families from their lands and increased environmental degradation.

A visitor to villages and towns near large mines in Ghana's Ashanti, Brong Ahafo, and Western Regions would see evidence of neglect and underdevelopment, rather than the development one would expect to see in communities close to such natural resource wealth. With the discovery of oil, coastal communities, mindful of the experience of mining communities in Ghana and villages in the Niger Delta in Nigeria, are now concerned that they will suffer the same fate and that government revenues will fail to "trickle down" to improve their lives.

The tragedy and elusive promise of extractive industry wealth

Unfortunately, around the world the exploitation of natural resources has far too often led to increased poverty and conflict. Economists and political scientists have grouped the problems faced by resource-rich countries under such phrases as the "paradox of plenty" or the "resource curse." The IMF recently classified 53 countries, including Ghana, as hydrocarbon- or mineral-rich.²⁰ Many of these countries suffer from various symptoms of the resource curse or paradox of plenty and have suffered from low growth: between 1970 and 1993, countries that were resource poor (without petroleum) grew four times more rapidly than resource-rich countries.²¹

There is a growing body of literature examining the resource curse.²² In the 2001 Oxfam America report titled, "Extractive Sectors and the Poor," Michael Ross, a political science professor at the University of California, Los Angeles, presented many key findings.²³ These include the following:

- Overall living standards in oil- and mineral-dependent states are exceptionally low – lower than they should be given their per capita incomes.
- Both oil- and mineral-dependent states are exceptionally vulnerable to economic shocks.
- Oil- and mineral-dependent states tend to suffer from unusually high rates of corruption, authoritarian government, military spending, and civil war.
- Countries rich in oil, gas, and minerals exhibit exceptionally high rates of child mortality and government ineffectiveness *relative to other countries* at a similar income level.
- Oil dependence is also associated with high rates of child malnutrition, low spending levels on health care, low enrollment rates in primary and secondary schools, and low rates of adult literacy.
- Mineral dependence is strongly correlated with income inequality.

Many countries dependent on extractive industries often share a variety of characteristics and challenges, some of which Ghana has faced or may face with the coming oil boom.²⁴

- Oil booms raise expectations and increase appetites for public spending.

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- With booms often comes dramatically increased, and unsustainable, public spending based on unrealistic revenue projections.
- Increased public spending often feeds a patronage system rather than being effective in reducing poverty and increasing public goods. In Gabon during the 1990s, a World Bank report noted that there “is a striking imbalance between the mediocre outcomes in health and education and the relatively high level of public spending for these sectors. The health sector presents a demographic and epidemiological profile typical of a poor country. Public health indicators are only average for Sub-Saharan Africa.”²⁵ Even in countries with a degree of political will to allocate a windfall wisely, weak government capacity hampers effective spending.
- Countries dependent on extractive industries are exposed to external price shocks. The volatility of oil prices – ranging from \$140 per barrel to below \$40 in 2008 alone – hinders growth and makes planning for poverty alleviation and national development difficult. Government budgets often rise and fall in relation to the oil price in countries such as Nigeria. Ghana has experienced booms and busts based on gold and cocoa exports. These *boom and bust cycles* are bad for development.
- A sudden influx of wealth from an oil or mineral boom often means a loss of fiscal control and difficulty with planning and sticking to government budgets. Midyear surpluses lead to the need for supplemental budgets. In some countries, these surpluses are never accounted for. In the worst cases, much oil money never makes it into the official budget, engendering a system of parallel budgets or off-budget spending.
- Foreign debt grows faster, and countries often go on borrowing sprees based on their new “credit worthiness.” Some countries, such as Angola, have taken out “oil-backed loans” whereby the country pledges future oil production for up-front cash. Thus, Angola and other countries have “mortgaged their future” using oil as collateral.
- With “easy” money rolling in, many countries reduce their efforts at non-oil revenue collection. When this happens, petrodollars replace more stable and sustainable tax revenue streams. This frees oil-exporting governments from the types of citizen demands for fiscal transparency and accountability that arise when people pay taxes directly to the government. Thus petrodollars actually sever the very link between people and their government.
- Through the “Dutch Disease” effect, oil and mineral booms can have the effect of crowding out other productive sectors of the economy. These effects can hamper efforts at diversifying the economy. According to the 2003 Catholic Relief Services report “Bottom of the Barrel: Africa’s Oil Boom and the Poor”:

The Dutch Disease occurs when oil windfalls push up the real exchange rate of a country’s currency, rendering most other exports noncompetitive. At the same time, persistent Dutch Disease provokes a rapid, even distorted growth of services, transportation, and construction, while simultaneously discouraging some industrialization and agriculture. Agricultural exports – a labor-intensive activity particularly important to the poor – in particular are adversely affected by economic dynamics set off by the exploitation of petroleum. The languishing

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*of the agriculture and manufacturing sectors of oil countries not only makes them more dependent on petroleum, thereby exacerbating other problems of dependency, but it can also lead to a permanent loss of competitiveness. Meanwhile, the oil sector cannot make up the shortfall.*²⁶

- Extractive industry investment creates enclave economies where the investments have few linkages to the rest of the economy and few jobs are created. With offshore oil production, the investment is both a *physical* and *economic* enclave. In Chad, the \$4.7 billion oil investment created some short-term employment during the construction phase but few permanent jobs for Chadians. In early 2008, only 184 supervisory positions – or 6 percent of jobs – were held by Chadians.²⁷ In many countries, local businesses are passed over for contracts or do not have the capacity to provide the goods and services required by international oil firms.
- Many countries dependent on extractive industries suffer from a lack of transparency regarding the activities of the sector and the financial flows generated. Contracts for oil concessions are often shielded by confidentiality clauses, even though the government is licensing access to natural resources on behalf of its population. Payments made by companies to governments – royalties, taxes, etc. – are often kept secret or are difficult to discover. Finally, in some countries, it is difficult to access government budget information or to track how money is being spent.
- On top of these problems, extractive industries, involving payments directly to central governments, tend to concentrate power and resources. Many resource-rich countries have an absence of counterpressures – such as an active and capable civil society, independent media, and an impartial judiciary – leading to a deficit of democratic accountability and poor human rights records. In countries where such institutions exist at the beginning of a resource boom, these are often eroded as governments seek to obtain more power and control over the boom. Economist Paul Collier has argued that “checks and balances significantly and distinctively raise growth in the context of large natural resource rents.”²⁸
- Finally, many resource-rich countries suffer from local or regional grievances and, at times, rebellions. Too often, those communities closest to the resource extraction sites are those that suffer the most environmental and social impacts and receive the least in terms of benefits through government spending. The plight of the Niger Delta in Nigeria is a classic case of this dynamic, with the rebel group MEND (Movement for the Emancipation of the Niger Delta) feeding off of local grievances and causing hundreds of thousands of barrels a day to go “offline” because of attacks and unsafe operating environments.

As “Bottom of the Barrel: Africa’s Oil Boom and the Poor” states: “Where business lacks transparency, governments are accountable to none, economies are weak, administrative capacity lacking, and participation absent or wanting – yet investments and lending continue to pour in without restrictions – rent-seeking and corruption result. Over time, earnings are squandered, a precious asset is depleted, and widespread poverty remains.”

Many countries dependent on extractive industries suffer from a lack of transparency regarding the activities of the sector and the financial flows generated.

Ghana's discovery in the context of Africa's oil boom

Over the past 20 years, Sub-Saharan Africa has been experiencing a large ramp-up in investment and production of oil and gas. This surge in production has had profound impacts for the people and political economy of nations in Africa's Gulf of Guinea region and elsewhere.²⁹ With oil fields in other parts of the world "locked up" in the hands of governments and national oil companies, international oil and gas firms have flocked to Africa based on open investment policies, lucrative offshore finds, and easy shipping to international markets. Africa produced 12.5 percent of the world's oil last year and has been the site of intense exploration and investment in the past decade.³⁰ Ghana's Jubilee field is but the latest find, while other discoveries have recently been made in Uganda and elsewhere.

	Estimated reserves (1,000 barrels)	Production (1,000 barrels per day [bpd])
Angola	8,000,000	1,695
Cameroon	400,000	84
Chad	1,500,000	150
Congo-Brazzaville	1,600,000	240
Equatorial Guinea	1,100,000	320
Gabon	2,000,000	230
Ghana, current	15,000	6
Ghana, potential	600,000– 1,300,000	40– 150
Ivory Coast	100,000	30
Mauritania	100,000	26
Nigeria	36,220,000	2,167
Sudan	5,000,000	472

TABLE 1.
Oil producers in Sub-Saharan Africa

Sources: *Oil and Gas Journal*, *Economist Intelligence Unit*, *Tullow Oil P.L.C.*

Much of Sub-Saharan Africa's high growth rates have been driven by foreign direct investment (FDI) in the extractive industry sector. According to the Economic Commission for Africa, FDI reached a high of \$35 billion in 2006, driven by oil, gas, and mining investments.³¹ African oil is largely exported to Europe (33 percent) and the US (32 percent), while China imports 9 percent.³² The US has seen its share of oil imports from Sub-Saharan Africa increase, with 18 percent coming from the region in 2007—more than from the Persian Gulf.³³

A boom in production and world oil prices has meant a huge windfall for Africa's oil-producing states. During the 2002–2006 period, oil-producing

countries in Sub-Saharan Africa tripled their aggregate oil GDP from \$30 billion to \$105 billion. During the same period, oil revenues went from \$18 billion to \$71 billion.³⁴ In 2002, PFC Energy, a consulting firm, projected that African governments would receive at least \$349 billion in government revenues through 2019. During the present boom period, African oil producers have increasingly become dependent on oil for government revenue—well over one-half of total 2006 revenues came from oil in Angola, Chad, the Republic of Congo, Equatorial Guinea, Gabon, and Nigeria.³⁵ In Angola, more than 90 percent of government revenue comes from oil.

But the current oil boom in Africa has yet to translate into tangible benefits for poor people. Previous booms in places such as Nigeria have produced a large uptick in spending that has been unsustainable and not targeted at poverty reduction. Overall, resource-rich countries in Africa have experienced *lower* growth rates than resource-scarce countries. According to the African Development Bank's "African Development Report 2007":

*... Resource-rich countries only experienced an average growth rate of 2.4 percent from 1981–2006, considerably lower than the average of 3.8 percent for resource-scarce countries. Indeed, resource-scarce African countries out-performed resource-rich countries in terms of real per capita GDP growth during the 1981 to 2001 period, with a reversal occurring thereafter, reflecting the current boom. ... On the contrary, resource-scarce countries were able to achieve real growth during nearly the whole 1980–2005 period, albeit at a modest rate, and have thus significantly narrowed the gap with resource-rich countries.*³⁶

For some countries, such as Gabon, the oil era is coming to a fast end, with little to show for it. Production on the continent may peak as soon as 2013 or 2014, according to oil industry consultants, topping out at 7.1 million barrels per day (bpd) compared with 5.8 million bpd in 2008.³⁷

Global efforts to address the resource curse are growing

The problems of resource-rich countries have captured the attention of international donors, governments, academics, and global civil society over the past decade. The story of vast wealth alongside large-scale poverty has been covered by journalists from Angola to Azerbaijan. Recognition of the global reality of the resource curse, coupled with a global expansion of extractive industry exploration, high commodity prices, and increasing demand from emerging economies in Asia, has made "combating the resource curse" rise to the top of the international development agenda.

Most efforts to date have focused on removing the veil of secrecy that shrouds the financial flows in the extractive industries. By increasing transparency and public information, civil society groups, journalists, and parliaments can play a more active role in "following the money" and building systems of democratic decision-making on how resource wealth should be managed and spent. In 2002, the global Publish What You Pay (PWYP) civil society coalition was launched and now counts more than 300 environmental, human rights, development, religious, and other groups among its membership.³⁸ The coalition includes many national platforms, including

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in Ghana, and advocates for transparency of extractive industry contracts, payments, and government expenditures.

Shortly after the launch of PWYP, the British government launched the EITI.³⁹ The EITI is a voluntary initiative designed to increase transparency of payments by companies to governments. The EITI requires governments to demonstrate political will and sign on to the initiative. Using a multi-stakeholder approach at the country level and the global governance level, the EITI includes governments, companies, and civil society groups. At the country level, companies disclose payments to an aggregator and governments disclose receipts. Discrepancies are reconciled and a report published. Years of negotiation led to the establishment of participation criteria and principles as well as rules for “validating” EITI implementation.

In the two years since the EITI summit in Norway that established the validation criteria, many institutions and actors have endorsed the initiative, but no country has successfully completed the validation process and achieved “compliant” status. After three global EITI conferences since 2003, reports on payments of varying quality have been produced in a number of EITI countries, and 24 countries are now officially “candidates,” although progress is slowed or stalled in many places. In Africa, Ghana and Nigeria have published reports under the initiative, but neither country has been validated, and civil society groups in Ghana are concerned that the process could become an empty exercise if report recommendations are not implemented by the government.

A major weakness of the EITI approach is its voluntary nature. Countries that need transparency the most are often the least likely to sign on to the process or faithfully implement it. Companies that participate in the initiative are only obliged to report payments in countries of operation that subscribe to the EITI. The EITI also does not cover the disclosure of extractive industry contracts—in other words, a country could be fully “compliant” while keeping all of its contracts secret. In Nigeria, voluntary commitments to the EITI have been enshrined in a new transparency law, but in many others progress depends on political will, which may wax and wane over time. Finally, some countries may make progress on disclosure of information but not improve other aspects needed to address the resource curse, such as respect for human rights and independent media. For example, Congo-Brazzaville prevented a civil society activist from attending EITI global board meetings, and Gabon banned PWYP local activists from operating during 2008 and arrested a civil society activist and local EITI participant and journalists investigating corruption, while maintaining its board position.⁴⁰

International donors, such as the World Bank and the IMF, have also become increasingly active in the sector. The World Bank, long a controversial financier of extractive industry projects such as the Chad-Cameroon pipeline, has been a key provider of technical assistance and support for the implementation of the EITI in many countries. It has also adopted a mandatory requirement for payment disclosure by any oil, gas, or mining company receiving financing from the bank’s private sector arm, the International Finance Corporation (IFC). Finally, the World Bank has announced an approach that would involve assistance to countries to improve transparency and best practices across all steps of the value

chain—from licensing for exploration to the collection, management, and expenditure of revenues. (To the consternation of the EITI secretariat and adding to public confusion, the World Bank dubbed this approach “EITI++.”) It remains unclear what this new approach for the World Bank will look like in practice, and the institution continues to promote direct financing of extractive industry projects, even in countries that would appear unable to manage the risks and boom in revenues.

The IMF has ramped up its technical assistance and, in some cases, made revenue or contract transparency a trigger in the implementation of its policy and lending programs. In addition, the IMF’s “Guide on Resource Revenue Transparency” laid out good practice steps in managing resource revenues at all stages of the value chain—from licensing for exploration to the collection, management, and expenditure of revenues—but it has not made the practices laid out in the guide a consistent condition for countries across the board.

In part because of the weaknesses in existing efforts, such as the EITI, leading members of the US Congress have been exploring new legislation that would make payment disclosure mandatory. The extractive industries transparency disclosure bill was introduced in the House of Representatives and Senate in 2008 and was the subject of a legislative hearing in the House Financial Services Committee in June 2008. A former vice president from Shell, a leading member of the investment community, a securities lawyer, and the director of the Revenue Watch Institute all spoke out in favor of the bill.⁴¹ Congressional proponents of the bill plan to reintroduce the legislation in 2009, and, if passed, the bill would require any company registered with the US Securities and Exchange Commission to disclose their payments on a country-by-country basis annually. The legislation would capture not only US companies but European, Canadian, Chinese, and other companies.⁴²

The introduction of the legislation in the US represents a recognition that solving the resource curse is a priority not only for resource-rich countries, but also for consuming countries such as the US. During a US Senate hearing in September 2008 on “Resource Curse or Blessing? Africa’s Management of Its Extractive Industries,” Senator Russ Feingold said:

The impact of this curse is not limited to the resource-rich countries themselves. The United States and other developed countries are also affected. ... It exacerbates global poverty, which can be a seedbed for terrorism, it dulls the effect of our foreign assistance, it empowers autocrats and dictators, and it can crimp world petroleum supplies by breeding instability. ... The Extractive Industries Transparency Initiative is one of several international efforts to fight the resource curse, and the report urges the administration to give the EITI more vigorous support. It also urges the oil, gas, and mining companies, which often express support for transparency, to do more to encourage it in the countries where they operate.⁴³

While some limited progress has been made to increase transparency in resource-rich states, secrecy around revenues is but one facet of the resource curse and much more work remains to be done. Addressing conflicts between communities and companies around extraction sites remains key, as well as ensuring that transparency practice does not outstrip human rights practice. Finally, consuming countries must send the diplomatic signals that prioritize accountable management of resource wealth over commercial access to these commodities. A Senate Foreign Relations Committee report

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on the problems of oil-producing countries released in 2008 called US efforts sporadic and lacking coherence and recommended that all G8 countries adopt mandatory payment disclosure rules for companies.⁴⁴

The story of Chad's recent experience with oil highlights the enduring challenges of turning oil revenues into sustainable poverty reduction. Little more than five years ago, the eyes of the oil world and of international donors were on the Central African nation. Although desperately poor and emerging out of civil war, Chad, we were told, would be the first country in Africa to defy the "oil curse" with the help of the World Bank and other donors. In 2002, the Central Africa representative at the time for the IFC said, "This is going to be the model for every single project of this type world-wide."⁴⁵ Chad's President Idriss Deby, meanwhile, promised the country, "The development of the crude oil will benefit the entire Chadian nation."⁴⁶

Today, the hopes that Chad would manage its new oil wealth have been shattered.⁴⁷ The innovative Petroleum Revenue Management Law – designed to ensure transparency and funnel money to health, education, and other social needs – was significantly modified in 2006, allowing the government to spend more money on arms and other needs. After a stand-off with the World Bank over these modifications, the government agreed to spend 70 percent of its revenues on poverty reduction. Despite the promises, little money has trickled down to villagers near the oil field in southern Chad, and in February 2008 fighting between rebels and the government decimated the capital, forcing tens of thousands to flee, including many civil society activists who had sought to hold the government accountable in the spending of oil wealth. Using a state of emergency, the government of Chad temporarily suspended even its weakened oil revenue law.⁴⁸ Finally, the World Bank itself withdrew from the "model" project in September 2008.

Ghana is not Chad, and Ghana has a recent record of building a system of democratic governance. But the story in Chad, and in so many other countries, shows the significant hurdles that have to be overcome in order to use oil for poverty reduction and to put the country on a path to sustainable and equitable growth. While some argue that Ghana is at the threshold of becoming a middle-income country, a mismanaged oil boom could easily tip it in the opposite direction.

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Ghana's coming oil boom

“ Oil can often prove the undoing of many nations. Ghana is at the threshold of great things in the oil industry. Let us approach the find with sobriety. Government will continue to consult widely over the coming months as it prepares an organic and comprehensive master plan. ”

—Ghana's former president, John Kufuor, National Forum on Oil and Gas Development, Feb. 25, 2008

“Oil fever” has gripped Ghana since the first major oil discovery in the country's history was announced in June 2007. Since that time, Ghana has rapidly emerged as an oil industry hotspot. While there has been some oil exploration over the past century, with a trickle of oil produced in the Saltpond field, it has only been in the past decade that serious efforts have been made.

A successful drilling campaign by relatively small oil companies willing to take a risk has resulted in Ghana's first large-scale, commercially viable oil field. The Jubilee field, named for the fact that it was discovered in the same year the country celebrated 50 years of independence, may reach a production level of 120,000 barrels of oil each day by 2011. (Ghana's current consumption of oil is 40,000–60,000 bpd, almost all imported.)

Former President Kufuor stoked Ghana's oil fever by proclaiming at the end of 2007 and again in early 2008 that Ghana had oil reserves of 3 billion barrels, a figure greeted with skepticism by oil industry experts.⁴⁹ Now, with further exploration and data, the oil industry publication *Upstream* said in December 2008 that the 3 billion figure “raises few eyebrows today as companies pile in to drill up their share of the oil bonanza.”⁵⁰

Depending on oil prices and future production levels, Ghana could soon see more than \$1 billion added to government revenues each year, according to conservative estimates by the German technical cooperation organization GTZ. Even much lower estimates will easily eclipse current revenues from mining (largely gold) exports.

Ghana's life as an oil producer may be relatively short—20–30 years—and the country must move rapidly to beef up its legal and administrative framework to meet the significant managerial, administrative, political, and financial challenges the oil rush presents. Ghana's birth as an oil producer coincides with a political transition—with a new presidential administration, cabinet ministers, and Parliament installed in January 2009.

The Jubilee discovery and beyond

Ghana's oil rush is anchored by the significant Jubilee field, which straddles two oil blocks (see map) in the deep Atlantic waters offshore from western Ghana, approximately 63 kilometers (39 miles) from the coast and 132 kilometers (83 miles) southwest of Takoradi. The West Cape Three Points block is led by an American company, Kosmos Energy, which signed a contract for the block in 2004. The neighboring Deepwater Tano block, led by the Anglo/Irish company Tullow Oil, covers the other portion of the Jubilee field discovery. Exploratory drilling by Kosmos and then Tullow in 2007 (the Mahogany and Hyedua wells) and further appraisal wells have confirmed the significant size of the discovery, estimated by Tullow at between 600 million and 1.8 billion barrels of oil – “a world-class sweet oil field.”⁵¹ (Oil from Jubilee is light, sweet oil that is projected to sell at parity with the Brent oil market benchmark price.⁵²) Results announced in December 2008 by Tullow suggest that proven reserves – now at 600 million barrels – could eventually reach more than 1.2 billion barrels.⁵³ The field is also rich in gas, with an estimated 800 billion cubic feet of gas in the field as a whole.⁵⁴

“[This discovery is] hugely significant for Tullow and hugely significant for Ghana.”

—Paul McDade, Tullow Oil, Capital Markets Day presentation, Oct. 1, 2008

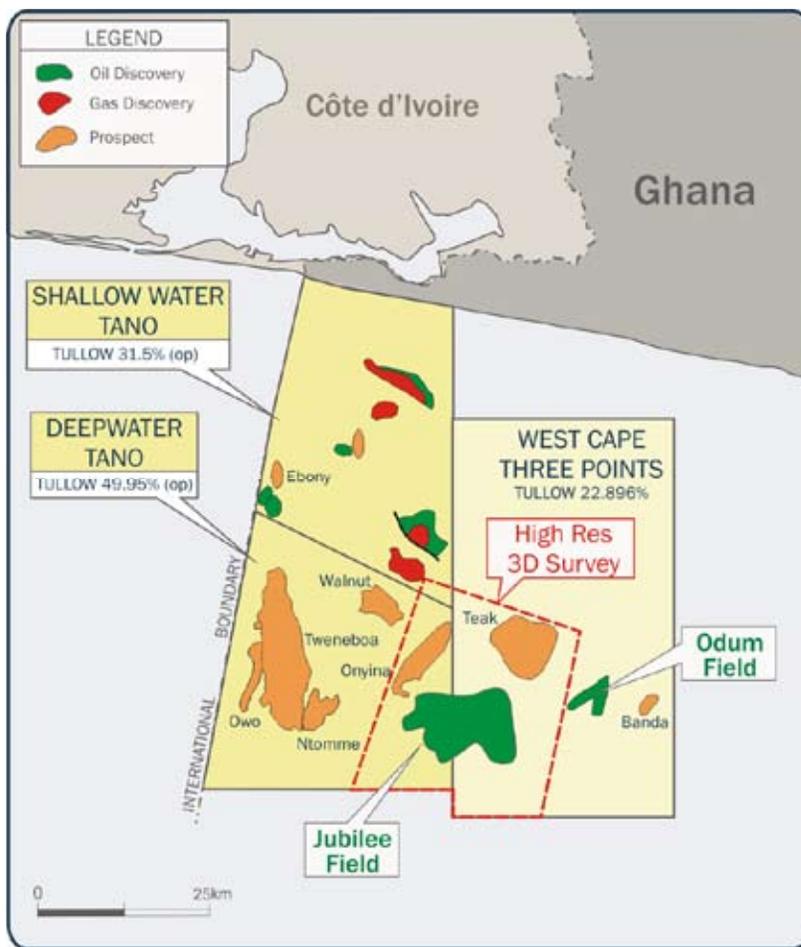


FIGURE 1. Detail of Jubilee field off the coast of western Ghana.

Source: Tullow Oil

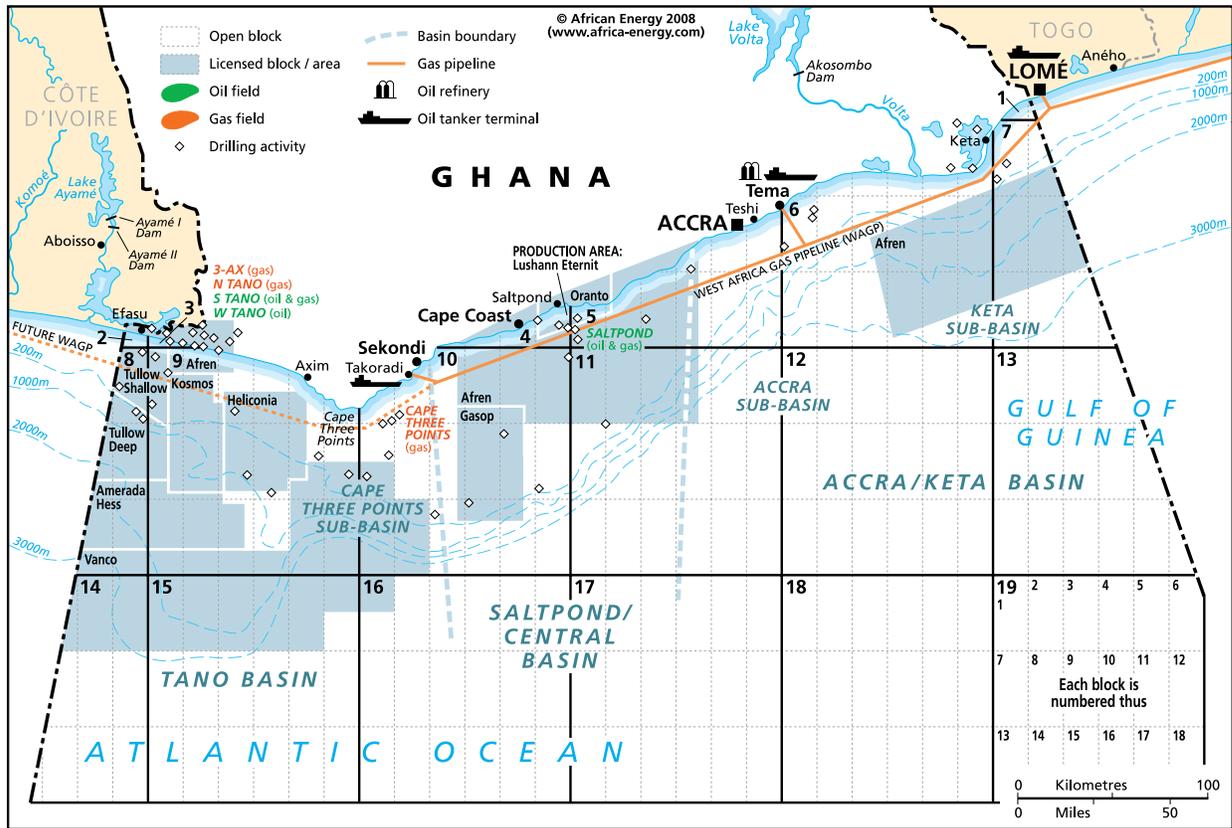
In December 2008, Tullow announced positive results of the Hyedua 2 well in the Deepwater Tano block, which may upgrade the geographical size and reserve estimate for the field. Published reports indicate a possible field size of 1 billion barrels. (This is roughly equivalent to the Doba oil project in southern Chad—a project developed by ExxonMobil and partners at an investment of \$4.7 billion, including an export pipeline.)

For both Kosmos and Tullow, the Jubilee field is huge for the life of the company. For Tullow, a FTSE (Financial Times Stock Exchange) 100 publicly traded company based in London, the Jubilee field, coupled with a find in Uganda, has made the company a medium-sized company to watch. After positive results from the Hyedua 2 and Mahogany 3 wells, the company's shares led sharp rises in the FTSE 100.

Kosmos is a small, Texas-based private company composed of many former Triton Energy employees. Triton Energy discovered the Ceiba field in Equatorial Guinea in 1999. James Musselman took over Triton in 1999 and subsequently moved to Kosmos when Triton was bought out by Hess. In 2002, Musselman called Equatorial Guinea (a poster child for the toxic combination of oil wealth, corruption, and human rights abuses) “stable” and a place where the “president is sincerely trying to improve things.” For Kosmos, this is *the* project that will propel the growth of the company.⁵⁵ A Kosmos official has called the discovery the largest discovery in West Africa in the past 10 years.

FIGURE 2.
Ghana: Hydrocarbons exploration

Source: African Energy



Kosmos and Tullow are joined by other companies in the ownership structures for the blocks (see Table 2, “Offshore Oil Blocks in Ghana”). The US company Anadarko Petroleum Corporation, a large and experienced player in the industry, has a stake in both blocks that cover the Jubilee field. The E.O. Group is a Ghanaian company with a 3.5 percent ownership stake in the West Cape Three Points block. Directors of the E.O. Group include Kwame Bawuah-Edusei, Ghana’s current ambassador to the US, and George Yaw Owusu, also the country manager for Kosmos.⁵⁶ Both men were honored by then-President Kufuor with the Order of the Volta medal in 2008 for their involvement in the Jubilee find.

Because the Jubilee field straddles two blocks governed by two petroleum agreements, the oil companies involved and the Ghana National Petroleum Corporation (GNPC) have had to develop a “unitization agreement” to develop a joint contractual framework and geographically delimit the Jubilee field area.

Beyond the Jubilee field, there is active exploration and licensing interest in Ghana’s offshore areas, much of this spurred by the 2007 discovery. Both Kosmos and Tullow, along with their partners, are doing further exploration outside of the unitization area. Kosmos has high hopes for a find outside the Jubilee field – in fact, the Jubilee discovery came as a surprise, as it was not the primary target in the West Cape Three Points block. Kosmos CEO Musselman told African Energy during an October 2008 visit to Ghana, “We have been able to identify a couple of areas with the same attributes as Jubilee, and we have a high degree of confidence of making another find as big as Jubilee.” In October 2008, Kosmos said the company would sink five wells in the coming 200 days in the Jubilee field, spending up to \$100 million in the process.⁵⁷ Tullow drilled a successful exploration well – Ebony 1 – in the Shallow Water Tano license area. Anadarko’s CEO has said, “The partnership expects to be active in the area in 2009 and anticipates drilling development, appraisal, and at least three additional high-impact exploration wells, including Tweneboa, Teak, and Onyina.”⁵⁸ The drilling of Tweneboa was planned to begin in late January 2009.

Beyond the Jubilee field, there is active exploration and licensing interest in Ghana’s offshore areas, much of this spurred by the 2007 discovery.

Other exploration wells have been drilled or are being planned for the Keta block and the South Deepwater Tano block.

Developing the Jubilee field

Developing an offshore field such as Jubilee will take years, the involvement of several companies and many contractors, and several billions of dollars in financing. Scarce and expensive drilling rigs will be moved into place – costing \$600,000 to \$1 million or more per day – and a floating production, storage, and offloading (FPSO) vessel will be manufactured and put into place to gather, store, and load oil onto tankers for the export market.

The four main companies involved in the field – Kosmos, Tullow, Anadarko, and the GNPC – negotiated a unitization agreement during mid- to late 2008 and worked together to present a field development plan to the Ghanaian government for approval. Originally scheduled for presentation in September 2008 for sanctioning by the government, the field development plan was, by the end of 2008, not yet sanctioned by the minister for

energy. Potential conflicts of interest exist in that the government, through GNPC, is in the position of both participating in the development of and evaluating the field development plan. A formal review by the Ministry of Energy was begun in December – with outside assistance from experts from Norway and Britain – but the Ministry of Energy will rely on GNPC, where the government’s petroleum expertise is concentrated. Barring any objection, the consortium may assume approval. According to the 2004 petroleum agreement with Kosmos for the West Cape Three Points block, 30 days after submission of a development plan by the companies to the minister of energy, the “development plan shall be deemed approved as submitted, unless the minister has before the end of the period” given notice to the companies that the plan has not been approved or that revisions are proposed.⁵⁹

TABLE 2.
Offshore oil blocks in Ghana

Sources: African Energy, Upstream, GNPC

West Cape Three Points	<ul style="list-style-type: none"> • Kosmos, 30.875 percent (operator); • Anadarko, 30.875 percent; • Tullow, 22.896 percent; • GNPC, 10 percent (carried); • E.O. Group, 3.5 percent; • Sabre Oil and Gas Ltd., 1.854 percent
Deep Water Tano	<ul style="list-style-type: none"> • Tullow, 49.95 percent (operator); • Kosmos, 18 percent; • Anadarko, 18 percent; • GNPC, 10 percent (carried); • Sabre, 4.05 percent
South Deepwater Tano	<ul style="list-style-type: none"> • Aker (Norway) was granted Ghana’s license, 85 percent; • Chemu Power (Ghana), 5 percent; • GNPC, 10 percent with an option to increase to 25 percent
Shallow Water Tano	<ul style="list-style-type: none"> • Tullow, 31.5 percent (operator); • InterOil Corporation, Al Thani Emirates Petroleum Corporation, Sabre, and GNPC, 10 percent (carried)
Offshore Cape Three Points	<ul style="list-style-type: none"> • Vitol Upstream Ghana Ltd., 85 percent; • GNPC, 15 percent—some surveying done (Heliconia Energy Ghana Ltd., subsidiary of Vitol), drilling due late 2008
Cape Three Points South	<ul style="list-style-type: none"> • Hess, block owner/operator
Cape Three Points Deepwater	<ul style="list-style-type: none"> • Vanco Energy Company (operator) holds a 28.34 percent interest in the block, with Lukoil holding a 56.66 percent stake. GNPC, the state oil company, holds a 15 percent carried interest.
Saltpond oil and gas field	<ul style="list-style-type: none"> • small production of 750 bpd by Lushann-Eternit Energy Ltd. - Saltpond Offshore Producing Company (Lushann-Eternit, 60 percent; local interests, 40 percent); • further exploration in area by Oranto Petroleum Ltd./ Stone Energy Ghana Ltd.
Keta offshore	<ul style="list-style-type: none"> • Afren Energy Ghana, 68 percent; • Mitsui, 20 percent; • GNPC, 10 percent; • Gulf Atlantic Energy, 2 percent

Details on the unitization agreement are not known, and because of the lack of transparency on oil contracts in Ghana, it is not clear how the difference for the fiscal terms between the contracts governing the two blocks that cover the Jubilee field have been reconciled. Disclosures by GNPC have stated that royalty, carried interest, and petroleum income tax terms are identical, with differences in the additional oil entitlement and additional interest (See the section “Who Gets What and Why: The Fiscal Regime and Petroleum Agreements in Ghana.”)

While there are some rivalries – the CEO of Kosmos has said, “Tullow followed us here. When we came in 2003, we had the pick of any block. ... Tullow doesn’t have the technical expertise to carry out a deepwater development program of this size” – there is strong interest from all parties to settle disputes and move forward quickly to develop the field.⁶⁰

The field development plan has not been made public, but some details have been reported. An Interdisciplinary Production Team including the four companies had regular meetings in Dallas during 2008 to develop the plan. Tullow has been named the “unit operator” of the field, with Kosmos the “technical operator of the integrated project team,” while Anadarko contributes its deepwater drilling experience. Tullow is responsible for the FPSO, shore base operations, and community and government relations.⁶¹

Field development plans, based on data about the field and engineering studies, may include the following:

- Details on how the development and production of the field will be financed
- Details on the drilling and completion of wells and the production, storage, transportation, and delivery facilities for petroleum, including a timetable
- Method for disposal/use of associated gas
- Onshore installations required
- Production profiles for oil and gas from the field
- Economic feasibility studies of alternative methods of developing the field
- Measures to be taken to protect the environment
- Proposals or requirements for procurement of staff, goods, and services from the national market

The field development plan can have important impacts on technical, financial, environmental, and other aspects regarding how the field, and Ghana’s petroleum industry, develops. Early decisions that are taken as part of the plan can narrow options for companies and the government down the road. There have been difficult negotiations regarding gas utilization and environmental management.

The consortium is pursuing a fast-track field development plan, with the start of production slated for just over three years from the date of discovery. (In many other countries, fields may take five to seven years to bring into production.) Appraisal of the field is continuing alongside the development

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of the field. Former Triton executives, now with Kosmos, brought the Ceiba field in Equatorial Guinea into production in 17 months. While oil production was initially planned to begin in mid-2010, expectations are now for a production start in late 2010 or early 2011 because of delays in the completion and approval of the development plan.⁶² (An action plan published by Kosmos Energy in December 2008 sets a target of November 1, 2010, as the date of first oil production.⁶³)

According to a report published in *Upstream* magazine, “Brian Maxted, chief operating officer for Kosmos, says a strategic decision was made to pursue a parallel, fast-track appraisal and development strategy due to a combination of factors, including the size of the discovery, the project’s importance to the partners, and ‘strong encouragement from Ghana’s government.’”⁶⁴ Some concerns have been privately expressed that the government, eager for cash, was pushing the consortium to do a “quick and dirty” plan that would cut corners to exploit the field as quickly as possible. Without a careful plan in place, the field could be damaged and oil recovery rates would diminish. Says Kosmos CEO Musselman, “We’re working in 4,000 feet of water, and the design, pre-planning, and engineering have to be done absolutely right.”⁶⁵ Most West African oil fields experience peak production early with a relatively quick decline. If an oil company – or government – has financial incentives to pump oil quickly, that could reduce field life.⁶⁶ (Industry experts estimate that globally, on average, 30 percent of oil in place is recovered. Norway’s recovery rate is around 40 percent.)

The development plan has the Jubilee field being developed in phases. The first phase will have 17 wells drilled – nine production wells, three wells to reinject associated gas, and five wells to reinject water to maintain pressure on the field. Four drilling rigs will arrive in Ghana by the first quarter of 2009. Tullow has signed a contract with MODEC, a Japanese company, for an FPSO for the first phase of the project. The FPSO, with a capacity of 2 million barrels, can process 120,000 bpd of oil, 160 million cubic feet of gas per day, and 100,000 bpd of water and will be installed in 3,609 feet of water.⁶⁷ The FPSO is the *Ohdoh*, a second-hand single hulled tanker that will be converted into the FPSO. Shuttle tankers will off-load from the FPSO every 10 days. A subsea gathering system will be built by French contractor Technip, and Norway’s Aker Solutions will provide umbilicals.⁶⁸ Approximately \$300 million will be spent in the first phase on support infrastructure, including support facilities and pipe yard at Takoradi.⁶⁹ (These plans have created a “gold rush” mentality in the town and have locals complaining about rising prices.⁷⁰)

The Jubilee field will average 60,000 bpd in the first year (starting in the second half of 2010 or early 2011), ramping up to a peak of 120,000 bpd during the first phase.⁷¹ Later phases will be developed as partners discover more reserves through appraisal drilling. The second phase – starting perhaps in 2013 – could include a second FPSO to possibly increase production to 240,000 bpd, with 2.6 billion cubic meters of gas per year.⁷²

Tapping the gas bonanza

The Jubilee field also has significant quantities of natural gas, and published reports state that 120 million to 160 million cubic feet per day of gas could be

produced from the field at an oil production rate of 120,000 bpd.⁷³ Ghana has adopted a policy of no gas flaring—often “associated” gas is flared (burned) at oil production sites—so the gas will either have to be reinjected or brought to shore. It is unclear how the field development plan is going to deal with gas and its commercialization, and it appears that different parties have conflicting ideas over how best to use this resource. Gas commercialization teams involving the consortium partners and the Ghanaian government were trying to address this issue during 2008.

Options include using the gas to fuel power generation stations; developing a liquid natural gas export facility; or developing the infrastructure and markets to use gas in transportation, households, and petrochemical industries. The gas also contains valuable byproduct liquids, such as liquefied petroleum gas, for which there is demand in Ghana already. Kosmos CEO Musselman told African Energy in October that gas would be used to fuel processing on the FPSO and to maintain pressure on the reservoir, with a remaining 50 million cubic feet per day brought to shore. Musselman said the government wants to use its money to build a pipeline to power the 124-megawatt (MW) Osagyefo barge at Efasu, while Kosmos “favors a proposal by Sithe Global to build, own, and operate a 240- MW power plant that could provide reliable energy to gold and bauxite mines in Western, Central, and Ashanti Regions—by 2010. ... They could be injecting 240 MW of power into the national grid by the end of 2010. And they would finance the project from their own resources. That’s my plan, but GNPC has other plans, and they want to build it themselves.”⁷⁴

Thomas Manu, director of operations for GNPC, has told the press that the gas produced from the field could be used to generate more than 600 MW of electricity. Ghana has been suffering from chronic power shortages and blackouts over the past few years. In 2005, Ghana consumed 5.85 million kilowatt hours (KWh) of electricity, according to the International Energy Agency. According to published reports, “in the second stage, 3.5 million cubic meters per day (Mcm/d) of the total 7.1 Mcm/d of produced gas will be used at the Takoradi power plant, according to [GNPC Managing Director Moses O.] Boateng. He further said that some of the gas would be used to supply domestic consumption, with excess gas to be fed into the West African Gas Pipeline system for export.”⁷⁵ In late December, a presidential spokesman said that Ghana planned to spend \$775 million on a natural gas processing plant in the town of Atuabo in the Western Region to produce ethanol, propane, fertilizer, and other products.⁷⁶

Financing the Jubilee field

Large deepwater offshore fields often require billions of dollars to develop. The IMF has estimated that it would take a \$2.7 billion investment to start up the Jubilee field by 2010, while other industry insiders have estimated between \$3 billion to \$4 billion for the first phase of the project.⁷⁷ Press reports state that Tullow has allocated \$3.1 billion for the first phase, excluding FPSO costs, but including \$1.5 billion for 17 wells and another billion for the subsea “trees.”⁷⁸ In November 2008, GNPC’s Manu said total field costs could run to \$6.5 billion.⁷⁹

Tight credit markets and low oil prices are making it difficult for some

oil companies to develop fields, especially smaller oil companies, or “minnows.” This is affecting players in Ghana, including Tullow and Afren.⁸⁰ With oil prices dipping below \$40 a barrel in mid-December 2008, the viability of the project may come under question. Each company in the joint venture will have to contribute to the costs of developing the Jubilee field according to their ownership share – either through periodic “cash calls” or annual payments.

Kosmos has significant private equity – at least \$800 million – from Warburg Pincus L.L.C. and Blackstone Capital Partners, two large private equity firms.⁸¹

Tullow is counting on a “reserve-based” lending facility to help finance its global operations. In late January 2009, Tullow announced that it would be raising \$565 million for issuing shares and that talks were continuing with 18 banks to raise \$2 billion.⁸² Tullow said it is “confident of refinancing the existing facility during the first quarter of 2009 and extending it to include the first phase of the Ghana project.”⁸³

Both Tullow and Kosmos have applied to the World Bank Group’s IFC for financing. Kosmos has requested \$100 million while Tullow has requested \$115 million. Both projects are in the pipeline and a board decision is planned in early 2009.⁸⁴

GNPC participates in the field through a 10 percent “carried” (no cost) interest – in other words, it gets a share of the oil produced without contributing to the costs of exploring for or developing the field. The Ghanaian state, through the GNPC, has the option of acquiring additional paid interest – believed to be up to 3.75 percent for the Jubilee field – within 60 days of the consortium declaring the project commercially viable (“Declaration of Commerciality”). In such a case, the GNPC must pay a percentage of all future petroleum costs, including capital, development, and production costs. These costs may be paid over time and are not required in an up-front lump sum. If GNPC fails to pay, “contractor shall be entitled to recover said costs, together with agreed interest thereon of not less than the cost of capital of the contractor in funding such costs, from production revenues.”⁸⁵ The additional cost of paid interest could be covered through a project-financing loan that the consortium obtains using proven reserves as collateral; through the oil companies providing money to the GNPC up front and the GNPC paying it back with interest from its share of oil produced; or through a loan obtained by the government of Ghana from an international financial institution or the private capital markets.⁸⁶

The post-Jubilee rush for Ghana’s oil acreage

The excitement sparked by the Jubilee discovery has led to a new “black gold rush” in Ghana and has focused attention on the process of awarding licenses to explore in Ghana. Since the results from the Mahogany well were announced in mid-2007, at least 41 applications have been received by GNPC for licenses (after being forwarded by the Ministry of Energy, which initially receives them), far eclipsing the average of four per year prior to the discovery.⁸⁷

Ghana has followed an open-door approach to licensing its offshore acreage through negotiated deals. Rather than preparing for an open bidding round (“competitive tendering”), where companies submit competing bids for acreage within a specific time period, the government’s approach has been to negotiate in private with individual companies that have shown interest. This may have been appropriate for Ghana when it was a frontier country prior to the Jubilee discovery, but open bidding rounds may be more appropriate for this phase of Ghana’s development as it matures as a producer. This would encourage more transparency and competition, leading to better returns and more opportunities for oversight.

Ghana’s sedimentary basins are divided into quadrants and blocks. A quadrant is 1 degree latitude by 1 degree longitude and is divided into 18 square blocks of 680 square kilometers (422 square miles) each. An investor can apply for acreage that cuts across these blocks. The maximum contract area or block is 3,000 square kilometers (1,864 square miles) by policy but may be larger in practice. According to the GNPC, companies review geological data and, if interested, file an application (with a \$7,500 fee) with the Ministry of Energy, which refers the application back to GNPC for evaluation of the work program and the fiscal package and due diligence on the company’s financial background, track record, and technical capabilities. If GNPC makes a positive recommendation to the minister of energy, the Ministry of Energy convenes a government negotiating team composed of the Ministry of Energy, GNPC, Attorney General’s Department, and the Internal Revenue Service. With a successfully concluded negotiation, the petroleum agreement (contract) is sent to the minister of energy, who forwards it to the president’s cabinet for approval. Once approved, the agreement is forwarded to Parliament for “consideration, possible modification, and ratification.”⁸⁸ Again, according to the GNPC, “every member of Parliament is given a copy of the petroleum agreement to review, comment [on], and discuss before ratification on the floor of Parliament. Clarifications are sought from GNPC by the Parliamentary Select Committee if necessary. When parliamentary ratification is secured, the PA [petroleum agreement] becomes effective.”⁸⁹

Companies have a set period of time to conduct exploration in their license area – this varies by contract – and may end up having to relinquish a portion of their license area if they do not comply with their exploration commitments. (For example, Vanco faces the prospect of relinquishment of 50 percent of its block and Hess, 25 percent, by the end of March 2009.)

The right of Parliament to approve agreements and contracts for licenses to exploit natural resources is spelled out in Ghana’s constitution.⁹⁰ It is unclear, though, how the parliamentary petroleum agreement review and approval process has worked in practice. Some parliamentarians have complained that they received only a short memorandum summarizing the agreement rather than the agreement itself.⁹¹

Potential conflicts of interest exist in the licensing review process, since GNPC is a participant in applications through carried interest and is also heavily involved in the review and due diligence process.

Some information is known about current interest in Ghana’s available acreage:

The excitement sparked by the Jubilee discovery has led to a new “black gold rush” in Ghana and has focused attention on the process for awarding licenses to explore in Ghana.

- The Russian company Lukoil was reported in June 2008 to be planning to invest \$100 million in onshore exploration in Ghana after a meeting between Lukoil Vice President Andrey R. Kuzyaev and then-Ghanaian Vice President Alhaji Aliu Mahama. Lukoil and Houston-based Vanco are to jointly explore in the Saltpond area in the Central Region.⁹²
- The Nigerian company Sahara Energy Fields Ltd. was reported by African Energy in October 2008 to be awaiting approval for an exploration agreement.⁹³
- Young Energy Prize, an obscure company based in Luxembourg and created by a former head of the Conservative Party of Russia, Nicolai Bogachev, has been reported to be in negotiations for acreage with local partner Dawant. The desired acreage is between Vitol's and Gasop Oil's acreage.⁹⁴
- Onshore/nearshore Tano – A production sharing contract with Afren and Celtique Energy is awaiting approval.
- Chinese interests – While Ghana has increased its diplomatic and commercial ties with China recently, there have been no confirmed reports of Chinese oil and gas companies in negotiation with the government regarding a petroleum license. (A Chinese company, Sinohydro Corporation, is constructing the \$600 million Bui dam.)
- A number of other very small and little-known companies have expressed interest or made applications, according to GNPC. These include TAP Oil Ltd. (Australia), Ascom S.A. (Moldova), and British Borneo Petroleum Ltd.

Potential conflicts of interest exist in the licensing review process since GNPC is a participant in applications through carried interest and is also heavily involved in the review and due diligence process.

Who gets what and why: The fiscal regime and petroleum agreements in Ghana

How the value of oil and gas production in Ghana will be split between the government and participating companies—in other words, each side's "take"—is determined by the broad guidelines provided by Ghana's petroleum-related legislation and specifically negotiated terms in individual contracts/petroleum agreements signed by the state with companies. Together these constitute the fiscal regime for petroleum production in Ghana.

Laws relating to the fiscal regime in Ghana include the Petroleum (Exploration and Production) Law of 1984 (PNDC Law 84) and the Petroleum Income Tax Law of 1987 (PNDC Law 188). (Both laws were enacted during the period of the military regime of Flt. Lt. Rawlings—the Provisional National Defense Council (PNDC)—and did not benefit from open discussion or parliamentary debate and approval.) The laws provide broad guidelines and key elements to be contained in contracts, but detailed elements of the particular fiscal package are negotiated by license area. It has been the custom for GNPC to employ a model petroleum agreement as the basis for negotiation, in which only certain (mainly fiscal) elements are left deliberately open to be decided by the parties.

Contracts are not made public as a matter of course in Ghana, but the GNPC has provided some details of contract terms for the Jubilee blocks. Ghana's contract system is a mix of elements from production sharing agreements, which are common for offshore Africa, and tax/royalty systems.⁹⁵ Among the weaknesses of the regime are its lack of transparency and the high number of negotiable terms. The main elements of Ghana's fiscal regime include the following:

- **Royalty payments:** A percentage of gross production in cash or in kind (physical oil/gas). According to GNPC, this ranges from 4 to 12 percent. No figure is fixed in the petroleum laws. The GNPC uses 5 percent royalty for government-take illustrations from the Jubilee field, and the Kosmos 2004 petroleum agreement for the West Cape Three Points block also lists a royalty rate of 5 percent for oil produced in depths of greater than 200 meters (124 feet). Gas production may have a different royalty rate for the same block—for the Kosmos block this rate is set at 5 percent. The royalty would be paid regardless of the level of profitability of the project.
- **GNPC carried interest:** A percentage of net production minus production costs. In the case of the Jubilee field, this is 10 percent.

Fiscal benefits to the state (assuming 100,000 bpd at US\$60 per barrel, reserves of 500 million barrels, and a production period of fifteen years):		
A.	Gross production	100,000 bpd
B.	Royalty: 5 percent of A =	5,000 bpd
C.	Net production	95,000 bpd
D.	Production cost	10,000 bpd = cash equivalent
E.	Basis for carried interest: C – D =	85,000 bpd
F.	Carried interest: 10 percent of E =	8,500 bpd
G.	Development cost: US \$3 billion at US \$60 per barrel =	10,500 bpd
H.	Basis for additional interest: E – F – G =	66,000 bpd
I.	Additional interest: 3.75 percent of H =	2,475 bpd
J.	Basis for tax: H – I =	63,525 bpd
K.	Tax: 35 percent of J =	22,234 bpd
L.	Additional oil entitlement =	about 4,000 bpd more
M.	Total state share: B + F + I + K without AOE =	38,209 bpd
N.	Total state share: B + F + I + K + L with AOE =	about 42,000 bpd
O.	Percentage of net oil:	over 51 percent, i.e., 42,000 divided by 80,000

TABLE 3.
Ghana government take: Illustration

Source: Thomas Manu, GNPC director of operations, "Government take" (presentation at Workshop on Oil and Gas Sector Development in Ghana, GIMPA, Accra, Ghana, Feb. 27, 2008).

- **GNPC paid or additional interest:** This option has a variable rate. In the case of the Jubilee field, it is 3.75 percent (2.5 percent in the Kosmos block and 5 percent in the Tullow block).
- **Additional oil entitlement:** This is an additional or windfall profits tax that accrues to the state when the project's actual internal rate of return (profitability) "exceeds the targeted rate of return used to evaluate the profitability of the venture during the negotiations. [On the Jubilee field], the targeted internal rate of return for Kosmos is 25 percent and that for Tullow is 19 percent. Hence, the net profits in excess of the targeted rate of return will be taxed at 5 percent for Kosmos and 7.5 percent for Tullow," according to a paper produced by the GNPC in 2008.⁹⁶ Higher tax rates apply at progressively higher rate-of-return thresholds on a sliding scale.
- **Petroleum income tax:** The petroleum income tax law sets the rate at 50 percent, but this can be negotiated. For the Jubilee field, this is set at 35 percent, with exploration and development costs depreciated over five years. There are no tax holidays as there are in the mining sector.
- **Annual surface rental:** A small fee paid during the exploration and development phases based on the size of the license area.

Contracts are not made public as a matter of course in Ghana, but the GNPC has provided some details of contract terms for the Jubilee blocks.

Some money has already started flowing, although how much is uncertain. GNPC has said that Ghana does not employ a "signature bonus" system—in other countries, such as Angola, such up-front payments can be several hundred million dollars.⁹⁷ (There are, however, annual payments made to GNPC for staff training in the range of \$100,000–\$200,000 per year.) Some press reports in 2008 stated that Tullow had declared tax liabilities of \$2.3 million to the government, although Oxfam America was not able to confirm such a payment.⁹⁸ Also, an unpublished amount of surface rental fees should have been paid to GNPC by the license holders for the various blocks. For example, the agreement for the West Cape Three Points block operated by Kosmos stipulates annual surface rental fees of \$20 per square kilometer, or \$35,220, while the agreement for the Shallow Water Tano license stipulates \$75,000 per year.

According to GNPC figures, Ghana's projected take is in the range of 38–51 percent, depending on whether or not the first tier of additional oil entitlement is included, and this could be higher—estimated by one international donor agency oil expert to be above 60 percent—with higher profitability and, thus, additional oil entitlements. (See Table 3 "Ghana Government Take: Illustration.") The IMF has published a lower figure, putting the government take around 35 percent at the beginning of production and reaching nearly 44 percent at assumed peak production in 2018/2019.⁹⁹ Figure 3 shows a snapshot of government takes across Africa as calculated by PFC Energy in 2003.

A key difficulty in assessing Ghana's fiscal regime for oil and gas production is the lack of disclosure of signed petroleum agreements. Such agreements cannot be found on any Web site or through the GNPC or a government information office. While there may not be practical prohibitions on disclosure of agreements, in practice they are extremely difficult for citizens to obtain. While the model petroleum agreement is available, this is only a generic template and many elements are open to negotiation. GNPC management

has expressed resistance to the idea of contract disclosure, even though many other countries have included such disclosure in practice or as part of transparency provisions in their petroleum laws.¹⁰⁰ It is also not evident that disclosing contracts would dissuade investors interested in Ghana's petroleum sector. The Kosmos 2004 agreement for the West Cape Three Points block does not specifically prohibit disclosure of the agreement and contains broad exceptions to the confidentiality provisions.¹⁰¹

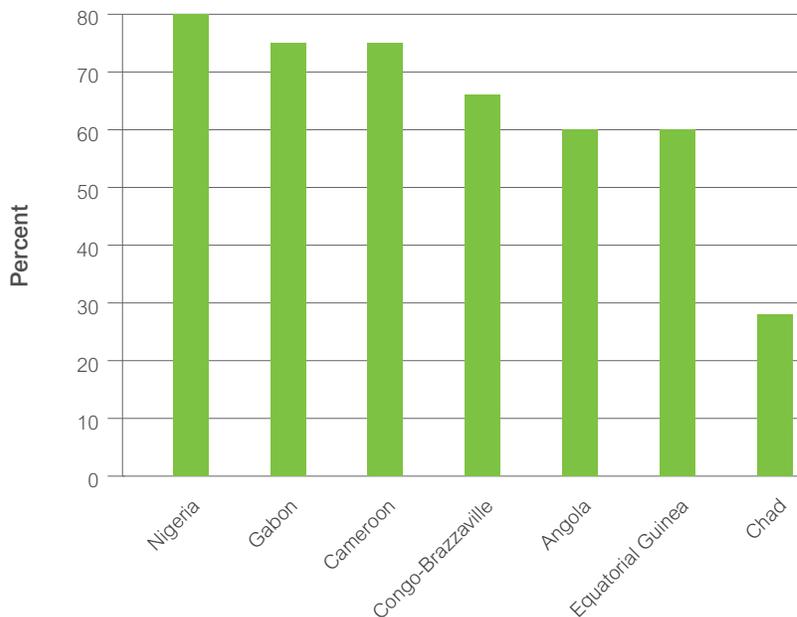


FIGURE 3.
Government-take comparison:
Sub-Saharan Africa

Source: PFC Energy, *West Africa Petroleum Sector: Oil Value Forecast and Distribution*, December 2003

■ Government-take

An additional worrying issue is related to Ghana's acceptance of so-called stabilization clauses in the agreements it has signed with oil and gas companies to date. These contract clauses lock in the legal and regulatory framework at the time of contract signing and are common in the oil and gas industries. Companies have an interest in maintaining the fiscal terms in place at the time of signing, but in developing oil and gas areas, such as Ghana, these clauses may have an impact on the ability of the government to fill in the legal and regulatory framework. For example, if Ghana's environmental laws and regulations are underdeveloped in relation to offshore oil and gas development and subsequent acts fill in this gap, companies with existing contracts could agree that these new regulations either do not apply to them or, if the regulations do apply, constitute a breach of the stabilization clause and would require financial compensation for any costs incurred to comply.

The Kosmos 2004 contract states, "Where a party considers that a significant change in the circumstances prevailing at the time the agreement was entered into has occurred, affecting the economic balance of the agreement," that party shall have the right to rectifications that will restore the "relative economic position" of the parties.¹⁰² Ghana's model petroleum agreement also contains such a clause.

Ghana's cash boom: Windfall projections

Estimates of Ghana's future revenues inevitably depend on a number of variables: the size and production rate of the Jubilee field and other potential finds, assumptions regarding exports of oil versus import substitution, the highly volatile world oil price, production costs and the internal rate of return of the oil consortium, the outcomes of negotiations for future oil blocks, and other factors. That said, a number of predictions have been made, based on certain assumptions, regarding Ghana's future oil windfall.

- The IMF has predicted that government revenues from oil and gas could reach a cumulative US\$20 billion over the production period of 2012–30 for the Jubilee field alone, or about 4–5 percent of GDP per year. This would equal 160 percent of 2008 GDP estimates.¹⁰³ In an internal document reported by the Financial Times, the IMF says that the government's take could be \$1.3 billion in 2013, more than cocoa and gold earnings combined.¹⁰⁴
- Nana Akufo-Addo, Ghana's foreign minister under President Kufuor and the NPP's presidential candidate during the 2008 campaign, has estimated that the government could earn \$15 billion during the first five years of oil production.¹⁰⁵
- GNPC estimates issued in July 2008, using a 100,000-bpd production rate and a \$60-per-barrel oil price, forecast \$836 million per year. At a 200,000-bpd production rate, "which could be achieved five years after commencement of production," the total annual revenue to the state would be over \$1.6 billion per year.
- The German technical cooperation organization GTZ issued estimates in early 2008:

... in the most conservative scenario with 40,000 barrels produced at an oil price of US\$50, annual government revenues from taxes, royalties, and the participating interest of the (GNPC) would amount to at least US\$200 million per annum. At a daily production of 150,000 bpd, Ghana would become an oil exporter. Again, assuming an oil price of US\$50 per barrel, ... annual government receipts from the sector would total more than US\$1 billion. In the latter scenario, our estimates suggest that annual government revenues will be composed roughly as follows: royalties, US\$135 million; interest (carried and additional), US\$300 million, and petroleum income tax, US\$630 million. For comparison, ... government receipts from the mining sector – royalties, taxes, and dividends – totaled US\$27 million in 2004.

Whatever the actual amount, Ghana is sure to experience a large surge in government revenues considering that total government revenue (including external support) in 2006 was around \$3 billion. South Africa's Standard Bank has estimated that Ghana's GDP growth rate could skyrocket beyond 20 percent a year in the early years of Jubilee production.¹⁰⁶

Oil revenues will greatly increase government revenues and the appetite of the population for spending on key poverty reduction measures. It will be up to the new presidential administration to address the multiple changes that this new industry and wealth will bring.

The IMF has predicted that government revenues from oil and gas could reach a cumulative US\$20 billion over the production period of 2012–30 for the Jubilee field alone.

Key challenges and preparations for the boom

“ Providence has been kind to us in the recent oil find, which has provided us with a bright light at the end of the tunnel. ... A carefully studied regulatory system to ensure transparent management is being prepared for parliamentary approval. Therefore, these difficulties of today should only be temporary. Let us therefore rally together confidently and look ahead into the future with hope and optimism. ”

—Former President John Kufuor, address to the nation, May 22, 2008

Ghana’s new president and Parliament will face a host of challenges, from growing inequality to rising demands for social services and great expectations that the coming oil boom will positively transform the country. Management of the future oil wealth played a key role in the election campaign, and the winner, opposition candidate John Atta Mills, promised the population of the Western Region, closest to the Jubilee field, that the region would benefit first before the rest of the country.¹⁰⁸

The new government of President Atta Mills will have to move quickly to put its team in place; develop a 2009–10 budget; and continue with the process of establishing the policies, laws, regulations, and capacities needed to turn future oil wealth into fuel for poverty reduction. All this must take place in a context of rising government debt and fiscal deficits, volatile commodity prices (gold, cocoa, and soon, oil), a likely decline in foreign aid, and a global economic crisis whose ripple effects are touching Ghana.

“The person who, as it were, gets hold of these resources and uses them well could be in power for a very long time. You’re playing for probably more than one election in December.

You’re playing for power for a generation.”

—Nana Akufo-Addo, presidential candidate for the ruling NPP, 2008¹⁰⁷

Government preparations for the oil boom

Since the Jubilee discovery, how has Ghana been handling the challenges, and what lies ahead? Will the new government undo work of the Kufuor government or build on it? While some work has been done in the past year and a half, and the Kufuor government proposed an ambitious timetable of action, many of the major questions have been passed on to the new Atta-Mills administration.

Soon after the July 2007 oil discovery, the government established an Oil and Gas Technical Committee led by Prof. Kwaku Appiah-Adu, the head of the Policy Coordination, Monitoring, and Evaluation Unit in the Office

of the President. The government's budget statement for 2008, issued in late 2007, says the following:

The discovery of oil is usually celebrated as a one-way ticket to wealth and economic growth. But recent history shows that poorly managed oil resources in a developing country can make life worse, not better, for most of its population. Oil can ruin local environments and create inequalities of income that destroy the fabric of a society and can become a curse rather than a blessing.

In pursuit of the objective of maintaining social and economic stability and long-term economic growth, government has set up a task force to prepare a master plan for the emerging oil industry. In 2008 the task force will examine the social and economic implications of Ghana becoming an oil-producing country and present proposals that will, among others, ensure that oil revenues will be used for economic diversification for the benefit of all Ghanaians, and to minimize the potential social and economic dislocations associated with oil wealth. The task force will identify the requisite legal and regulatory framework as well as the infrastructure and human resource needs of the new sector.”¹⁰⁹

With international donor financing (the World Bank, Britain's Department for International Development, GTZ, the US Agency for International Development, and others) and encouragement to open up the policy discussion, the government held a National Forum on Oil and Gas Development with the optimistic slogan, “Oil – a Blessing: Not a Curse. ...” Originally planned for a large venue, the Accra International Conference Center, and promoted as an open “people's assembly,” the “national forum” was switched by the government to an invitation-only event at a smaller venue. With fears that Ghana will follow other countries by keeping a tight grip on oil sector information and placing decision-making power in the presidency and the state oil company, this approach left many civil society activists – and some donors – with a bad taste in their mouths. A civil society communiqué stated that “we are deeply disappointed at the amount of space ceded to organized citizens groups in this initial consultation. ... The forum should have been opened to the general public.”¹¹⁰ In the end, only three Ghanaian civil society representatives (from the Integrated Social Development Centre [ISODEC], Third World Network-Africa, and the Ghana Trades Union Congress) were able to attend while others were barred from entry.

Opened and closed by President Kufuor, the stated purpose of the forum was to discuss oil and gas sector issues and to “chart the way forward.” The forum, and a subsequent closed-door expert workshop, brought in international experts from Norway, the Commonwealth Secretariat, the World Bank, IMF, Oxfam, the EITI, and other institutions to discuss issues around four themes:

- Turning oil and gas wealth into sustainable and equitable development
- Entrenching transparency and stakeholder engagement
- Effectively managing the oil and gas sector
- Safeguarding security and the environment

The forum and workshop displayed willingness by the government to draw on Ghanaian and international expertise. At the forum, the government pledged to learn from the experiences of other countries, involve local and

“We dare not fail. It will not only be the hopes of a nation being dashed but the hopes of Africa.”

—Kwaku Appiah-Adu, oil adviser to former President John Kufuor

international experts, and “consult widely” during 2008 to prepare a “comprehensive national oil and gas policy and master plan.”¹¹¹ Only limited opportunities for broad public consultation have taken place since the forum, and the draft policy and master plan have not been shared with the public. In July 2008, Ghana’s then-energy minister, Felix Kwasi Owusu-Adjapong, requested that members of Parliament canvas their constituents for input into the draft oil and gas policy.¹¹² Some regional consultations were held, but they largely focused on regional and local government officials to the exclusion of local civil society and citizen groups, according to some local and international observers.

While there has been some publication of information and much discussion in the media, there has been little opportunity for formal public input. After the February 2008 forum, six technical committees or working groups were established by the government to develop policy proposals and feed into the master plan development. After a struggle between the Castle (the presidency) and line ministries who felt left out of the process, the technical committees moved forward with their work in mid-2008, with the appropriate ministries chairing the various committees. Technical committees were established related to six broad areas:

- Legal framework
- Fiscal regime and fund types
- Natural gas utilization and infrastructure development
- Environmental management and community issues
- Local content
- Security issues

Most of the work of the technical committees happened in closed-door sessions, although the Fiscal Regime Committee had two meetings with external stakeholders. Some committees sought expertise from Ghanaians living abroad – for example, the Fiscal Regime Committee was chaired by Ministry of Finance and Economic Planning Adviser Joe Amoako-Tuffour, a professor of economics on sabbatical from a Canadian university. The Fiscal Regime Committee was tasked with reconciling laws and finding gaps, reviewing laws in other countries, reviewing existing petroleum funds, looking at cross-cutting issues, looking at end uses of revenues, and monitoring spending.

Parallel to the technical committee process, a leaked version of a draft policy paper (the “fundamental policy”) developed by Appiah-Adu’s Oil and Gas Technical Committee began circulating within government and donor circles in August. It is unclear whether this paper was tabled in Parliament or approved by Parliament before the December elections. The government’s goal was to have a policy paper – setting out broad policy goals and principles – finished and approved by Parliament, followed by submission and approval of a master plan that would fill in the details with strategies and action plans. It was hoped that these documents, benefiting from discussion and approval by Parliament, would tie the hands of the next administration.

The technical committees were given until the end of October to finish their work. Some committees had made more progress than others by November,

Parallel to the technical committee process, a leaked version of a draft policy paper (aka the “fundamental policy”) developed by Prof. Appiah-Adu’s Oil and Gas Technical Committee began circulating within government and donor circles in August.

and no draft of the master plan had been made public before the elections. With the timetable slipping, many Ghanaians and international donors interviewed were skeptical that any decisions made by the Kufuor administration would necessarily hold under the new president.

A leaked draft of the national oil and gas policy of June 2008 obtained by Oxfam America and ISODEC gives insight into the thinking of policy makers. The short document (16 pages) is full of important, common-sense and vague policy principles and proposals. The policy addresses two main areas – “guiding principles for government monitoring of petroleum operations” and the “regulatory framework for petroleum operations” – and states that it is “urgent” to develop policy and legal frameworks before the start of oil production.¹¹³ The government’s overall “policy goal” is stated as the following:

To become a net exporter of oil and gas and a major player in the global petroleum industry, through the development and management of the nation’s petroleum resources and revenue streams in a transparent and environmentally responsible manner for the benefit of every Ghanaian, now and in the future.

Some highlights of the policy principles elaborated in the document include the following:

- Government shall “ensure that all relevant institutions shall be organized so as to promote coordination [and] continuity, impose accountability, and create the necessary checks in the management systems for petroleum operations, revenues, and resources.”
- “The petroleum legal framework established in Ghana shall be transparent and shall provide predictability in contracting and in operations.”
- “Government shall establish processes to maximize petroleum revenue collection in a transparent and cost-effective manner and without jeopardizing incentives for petroleum investors. Government shall promote fiscal discipline to ensure correct petroleum revenues are collected and accounted for, and establish mechanisms to facilitate and simplify fiscal administration.”
- “Government will ... establish a transparent and predictable fiscal regime for the collection, verification, and utilization of petroleum revenues.”
- “Government shall ensure that petroleum revenue collected is invested in equitable ... national development for current and future generations.”
- “Government shall ... [provide] the public with accurate, proactive, and objective information on a timely basis.”
- “Need to develop a comprehensive framework to govern the development of a vibrant and sustainable gas industry.”
- “Government shall maintain a policy of no flaring or venting of natural gas.”

Regarding licensing of Ghana’s offshore and onshore acreage, the policy recommends a “mix” of licenses deriving from negotiated deals and competitive bidding rounds. The draft contains only one sentence on the

importance of good governance: “Recognizing that general good governance promotes investor confidence, which is essential to the profitability of Ghana’s petroleum industry, general principles of good governance shall be applied to the sector in order to entrench transparency, credibility, predictability, accountability, and integrity in all activities of the industry.” The draft contains no mention of the importance of civil society participation in monitoring and accountability, nor does it emphasize citizen oversight or an active role for Parliament. It is also important to note that the policy document makes no declaration of intent to subject future oil revenues to the principles and criteria of the EITI to which Ghana has officially subscribed with respect to solid minerals.

Legal framework and regulating the sector

While Ghana has a partial legal framework for petroleum exploration and production, the government recognizes that this framework is dated, needs review, and contains gaps that need to be addressed. Since 2006, the government has received assistance from the Commonwealth Secretariat to update the legal framework, which largely dates from the 1980s when Ghana was under military rule and there was little active exploration. The most important laws are as follows:

- The GNPC Law of 1983 (PNDCL 64) assigned to the GNPC the right to undertake exploration, development, and production of petroleum.
- The Petroleum (Exploration and Production) Law of 1984 (PNDC Law 84), which placed responsibility for regulating the hydrocarbons sector with the Ministry of Energy, though carried out by the GNPC, also allowed the GNPC to enter into partnership with foreign investors.
- Petroleum Income Tax Law of 1987 (PNDC Law 188).

There are currently no specific regulations governing the upstream and midstream sectors in Ghana, and this has led to the incorporation of many regulations on an ad hoc basis within petroleum agreements. At the same time, the GNPC, as a result of the absence of petroleum sector expertise in other parts of the government, took on the role of a regulator and monitor of the industry, creating a conflict of interest between the commercial and regulatory functions.

There are currently no specific regulations governing the upstream and midstream sectors in Ghana and this has led to the incorporation of many regulations on an ad hoc basis within petroleum agreements.

The mixed role of GNPC

The question of the role of GNPC stands large in the reform agenda, and the organization has attracted a fair share of controversy since it was established in 1985 without a capital base. (For example, the former head of the GNPC during the Rawlings era, Tsatsu Tsikata, was jailed and sentenced to five years in prison in July 2008 after being found guilty on three counts of “willfully causing financial loss to the state.” The case involved attempts by Tsikata to improve GNPCs finances through investments in non-petroleum ventures such as a cocoa farm.¹¹⁴)

Established during the military regime of Flt. Lt. Rawlings, the GNPC was created to undertake exploration, development, and production of petroleum, either on its own or in association with foreign oil companies, and to kick-start the petroleum industry in Ghana. By holding exclusive rights to Ghana's onshore and offshore petroleum basins, GNPC became the channel through which any foreign oil company gained access to petroleum exploration and production rights. As a result, GNPC's roles have also included the following:

- Undertaking geological data acquisition and management;
- Promoting Ghana's exploration potential;
- Evaluating potential investors;
- Negotiating petroleum agreements;
- Participating through equity in field development;
- Approving development plans;
- Monitoring petroleum costs.
- Monitoring activities of oil and gas companies.

As a participant in and chair of the Joint Management Committee for the Jubilee field, it oversees the consortium's work plans and operational budgets and has a role in determining and monitoring production and production costs—vital determinants for revenue calculations and payments to the state. (According to GNPC's chief legal officer, the petroleum agreements “empower GNPC to effectively monitor and control operations of oil companies and apply sanctions where necessary through the minister of energy.”¹¹⁵) As one GNPC staff member commented to Oxfam, the GNPC wears “a lot of hats” and does “a lot of things we are not supposed to do.”

For much of the GNPC's life, very little interest was expressed by international oil and gas companies and very little petroleum sector activity occurred. Nevertheless, at one point the GNPC bloated to 700 employees (it is now down to around 100) and became the locus for government expertise in the sector and dreams of oil riches that seemed until very recently to be a mirage.

With the GNPC now serving as both a de facto regulator and a participant in a commercially viable field, there have been calls by donors, including the World Bank and the German government aid agency GTZ, and others to unbundle the GNPC and split the roles of regulator and commercial entity.¹¹⁶ GNPC management has been reluctant to cede functions and expressed resistance to the idea during the national forum in February 2008. Manu, director of operations at GNPC, argued in a presentation that GNPC's current combination of “commercial, regulatory, and noncommercial functions at this stage of our developmental life cycle is more beneficial than if these roles were split.”¹¹⁷ He also argued that the GNPC gained valuable insights into the company operations and could therefore better regulate the sector and that limited human resources in Ghana meant the GNPC should play all roles for the time being.

The consensus of the international experts at the workshop, who had seen the problems of other countries, such as Angola, where the national oil company

With the GNPC now serving as both a de facto regulator and a participant in a commercially viable field, there have been calls by donors... to unbundle the GNPC and split the roles of regulator and commercial entity.

had become an unaccountable state within a state, was that the commercial and regulatory roles should be split and that transparency and accountability were vital elements in natural resource management institutions.

Filling out the legal and regulatory regime

In October 2008, a draft Ghana petroleum regulatory authority bill was published and presented to Parliament with a view to its eventual enactment. This comprehensive piece of legislation – 192 clauses over 90 pages – is in essence the proposed new petroleum law for Ghana and aims to be a “walk-through law” for the sector. The bill would do the following:

- Create an “independent” regulatory authority – the Ghana Petroleum Regulatory Authority (GPRA);
- Define the GNPC as a strictly commercial entity – a company under Ghana’s Companies Act – although the GNPC would still hold equity on behalf of the state;
- Establish regulations for the upstream and midstream sectors (exploration, development, and production of petroleum, as well as transportation and storage);
- Partially define the fiscal regime;
- Establish disclosure and confidentiality rules for the sector.

The drafters intended to have a one-stop bill for the petroleum legal framework – a walk-through law – and, if passed in its draft form, the bill would rescind the Petroleum (Exploration and Production) Act of 1984. The act would also “take precedence over any existing act” that relates to the upstream or midstream activities.¹¹⁸ Under the bill, the GPRA would take on the responsibility of negotiating new licenses, and regulatory staff from GNPC may be transferred to the GPRA as “necessary for the performance of its functions.”

The bill has a number of positive features. These include the following:

- **Recognition of the need to split functions:** The bill provides for splitting up the regulatory and commercial functions currently held by the GNPC.
- **Public announcement of available petroleum blocks.**
- **No gas flaring.**
- **Permitting by Ghana’s Environmental Protection Agency:** Companies must receive an environmental permit from the EPA prior to receiving an exploration license.
- **Some disclosure required:** Some disclosure is required under the law, including disclosure of licenses, license and utilization agreements, and approved development plans. Unfortunately, this disclosure is upon payment of an unspecified fee.

- **Consent and compensation:** For onshore exploration or petroleum development, there is some provision for landowners' consent prior to exercising license rights. The landowner of any land in an exploration or development area "shall retain the right to graze animals, cultivate the surface of the land, or to fish" if that does not interfere with development and exploration activities. It is unclear how this provision would function in cases of communal land ownership. In addition, the bill provides for compensation for damages to crops, trees, buildings, etc., but gives the GPRA arbitration authority. The law is silent on how ocean resources will be managed or how fishing communities might be compensated for loss of ocean fishing areas. Given the history of land and compensation disputes related to gold mining in Ghana, it would seem that more robust protections for communities and landowners need to be built into the GPRA law.
- **Employment and local content:** The bill sets ambitious requirements for local employment and local sourcing of goods and services—the percentages escalate over time.

At the same time, many elements of the draft bill, as well as omissions from the bill, are cause for serious concern. These include the following:

- **Presidential powers and the GPRA:** The president of Ghana appoints the members of the board of the GPRA and can appoint and remove members at will. In addition, the president can appoint GPRA's secretary and other staff, and there is an unclear line between political appointees and civil servants in the GPRA. (A key feature of good governance in the sector would be meritocratic civil service technocrats not beholden to political influence.) The president also appoints the minister who would be responsible for the GPRA.
- **Conflicts of interest:** The CEO of the GNPC would be a permanent member of the GPRA board. While there are some disclosure provisions and other clauses related to conflict of interest, since the GNPC is a party to *every license* granted by GPRA through the carried or initial interest, there may be a structural conflict of interest. Also, the GNPC CEO would have a permanent "seat at the table" and could not be as easily removed as the other GPRA board members.
- **Funding and independence of the GPRA:** The GPRA operating budget would be derived from allocations from Parliament; a fee determined by the board; "donations, grants, and gifts"; and any other moneys approved by Parliament. Without an independent and dependable source of financing, the GPRA would suffer from a lack of financial independence and could be beholden to Parliament, companies, or others for its survival. In the hard-metals mining sector in Ghana, the Minerals Commission has suffered from a lack of financial autonomy. A study of the World Bank's activities in the mining sector by the bank's evaluations department noted that "financial autonomy for regulatory bodies such as the Minerals Commission is crucial for their effectiveness and sustainability. This can be assured through levies on mining companies and/or license fees, etc."¹¹⁹
- **Unclear jurisdiction and overlapping functions:** As written, the GPRA law may produce overlapping jurisdictions and functions among the

A study of the World Bank's activities in the mining sector by the bank's evaluations department noted that "financial autonomy for regulatory bodies such as the Minerals Commission is crucial for their effectiveness and sustainability."

GPRC, the Energy Commission, and the National Petroleum Authority, especially related to petroleum pricing and transportation. Regarding petroleum agreements, the bill gives the GPRC much authority for negotiation but states that the GPRC “shall consult and cooperate with ministries, departments, and agencies of the government that have duties, aims, or functions related to those of the [National Petroleum] Authority.”¹²⁰

Parliamentary involvement would provide a crucial element in a system of checks and balances to manage the oil and gas sector.

- **Information sharing with other agencies:** The draft does not specifically require the GPRC to share information with other government agencies. Such cross-government coordination and information sharing will be crucial to managing the sector, and the lack of such coordination has hampered efforts to monitor the gold-mining industry.
- **Management and governance of GNPC:** While the bill establishes GNPC as a company, it does not give any details on management and governance, other than that it should be subject to and managed in accordance with the Companies Act. Given the importance of GNPC to the economy, more detail on its governance would be needed. The GNPC must be accountable to the public in its three distinct roles:
 - > As custodian of the state’s participating interest
 - > As marketer of the state’s share of petroleum, where it is taken in kind
 - > As operator/investor for its own account
- **No role for Parliament:** Ghana’s Parliament is not given a role in the sector, for example, through debating and approving petroleum agreements, auditing or monitoring the GPRC, or approving presidential appointments to the GPRC’s board. Parliamentary involvement would provide a crucial element in a system of checks and balances to manage the sector. (Ghana’s constitution does appear to provide Parliament with the right to approve petroleum agreements, unless a two-thirds majority agrees to give up the right.)
- **Discretionary fiscal regime:** The bill provides much latitude on the fiscal regime and thus wide-ranging negotiating power to the GPRC. Royalties are set at 10 percent “at the minimum”; surface rental fees are open-ended; no amount or range is provided for additional oil entitlement, etc. The government may decide on a production-sharing agreement instead of the royalty/tax system. While a degree of flexibility may be needed, too much latitude may be an invitation to corruption.
- **No open, competitive bidding round mandated:** The draft legislation is silent on the type of licensing procedures that Ghana would adopt.
- **Extensive secrecy provisions:** The draft bill has extensive secrecy provisions, with two pages on confidentiality aspects. There is no mention of public access to GPRC board meetings or records. The commercial confidentiality provisions are unnecessarily broad. Violators of the confidentiality provisions face up to five years in prison.
- **Lack of transparency:** In contrast to Ghana’s commitments under the EITI, there is no provision for the disclosure of payments received

from companies, production data, petroleum agreements, and other important information.

- **Oil-backed loans:** The bill does not prohibit the practice of oil-backed loans by GNPC, GPRA, or other state entities.
- **No-go zone:** For onshore petroleum activities, oil licenses could be granted in national wildlife reserves or forest reserves with the permission of the relevant minister. Given the relevant political power balance between ministries, it is easy to envision petroleum exploration going forward in forest reserves, as has happened in the mining sector.
- **Environmental and social impact assessments (ESIAs):** The bill would let companies off the hook for developing ESIA. The draft assigns the responsibility for developing an ESIA for a field development plan to the GPRA.
- **No outer limit for commencement:** Once passed by Parliament, the act comes into force when the relevant minister publishes it in the government Gazette. Until then, the GNPC would be responsible for the functions of the GPRA.

This set of issues significantly weakens the proposed GPRA and gives rise to a concern that the GNPC may retain enormous influence through its position on the board and through presidential influence. By the end of 2008, there had been no parliamentary debate on the draft bill. Some international donors had provided comments by end of November. It was unclear how the development of the draft bill intersected with the work of the technical committees or the development of the master plan. In addition to the draft GPRA bill, the government signaled plans to amend the Internal Revenue Act of 2000 to help fill in elements of the petroleum tax regime. Finally, a revised model petroleum agreement would be developed, although this would not limit by law the discretionary elements of the fiscal regime in the GPRA bill. In addition to the above, there will need to be a new legal framework for natural gas, and the EPA Act may need amending to clarify and strengthen its oversight role in the petroleum sector.

The process of putting forward the draft GPRA bill before discussion of a draft master plan is troubling, as it puts the cart before the horse. It is difficult to debate the GPRA bill, or other proposed petroleum legislation, in a vacuum prior to agreement on policy principles and a master plan.

Institutional challenges

Beyond putting the appropriate policy and legal framework into place, Ghana faces significant institutional capacity challenges. These challenges are most important to address within government, but parliamentarians, civil society groups, journalists, and others all need strengthening in order to play a useful role in the collective management and oversight of the petroleum sector for the common good. There are capacity issues across the board, from GNPC and the yet-to-be-created GPRA; to the Ministry of Energy, Ministry of Finance and Economic Planning, and EPA; to other government ministries, departments, and agencies. Ghana will need expertise to monitor

In contrast to Ghana's commitments under the Extractive Industries Transparency Initiative (EITI), there is no provision for the disclosure of payments received from companies, of production data, of petroleum agreements and other important information in the draft GPRA bill.

production costs on a multibillion-dollar deepwater field, staff in the Internal Revenue Service who can understand the complex calculations in the petroleum agreements that determine the government take, auditors who can audit oil company books, investment specialists who can understand and help manage potential oil savings or stabilization funds, and so on.

While the Jubilee field development is on a fast track, developing the institutional capacities within and outside government will inevitably take significant time and money. It is important that Ghana does not make the mistake of other natural resource-rich countries where commercial development has far outstripped the capacity of even well-meaning governments to regulate and extract the most value from the sector. Ghana will need to seriously consider the *pace* at which the sector is developed to allow capacity-building efforts to “catch up.” Bryan C. Land, an oil and gas expert with the World Bank, has said that if Ghana plans to significantly change how the sector is managed – e.g., through the creation of a GPRA – this could take years. As an example, changes in the management of the petroleum sector in Algeria “were under preparation over several years, and implementation delayed new licensing for as much as two years. ... Institutional restructuring and capacity building requires long-term commitment and resources. ... Capacity-building programs are typically over three to five years and sometimes need extension.”¹²¹

Investment in the institutional capacities up front – while costly and time-consuming – will help Ghana avoid early mistakes and increase the government take that can be used for poverty reduction programs.

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Managing the money: Revenue collection, management, and expenditure

Vital elements of Ghana’s capacity-building agenda focus on managing the boom in oil wealth, a challenge that so many new oil producers have not met. With less than two years until the first government budget in 2011 with significant oil revenues, important decisions will have to be made and capacities built to manage the windfall. Can the government ensure that what oil companies pay is what is owed to the government? How much oil money can the government budget usefully absorb? How much money should be used on infrastructure investments such as roads, and how much should be used for recurring costs, such as teachers’ salaries? Are the government procurement, spending, and auditing systems up to the task of preventing wasteful spending? If there is a surplus of money, how should it be saved? How can the government protect the budget from the volatility of oil price swings? The agenda is both broad and deep. The Bank of Ghana has recommended that the focus should be on three key areas: institutional arrangements and capacity building, determining oil revenue expenditure levels, and the “optimal composition of expenditures.”¹²³ The draft policy paper and GPRA bill are largely silent on these questions, and it is important that they, and many others, are subject to robust public debate. Planning for the 2011 budget will start in early 2010, so time is of the essence.

“If you are not used to good management of money and you win a lottery, you can still become a pauper.”

—Felix K. Owusu-Adjapong, minister of energy in the Kufuor administration¹²²

Public financial management reforms have been in process for years in Ghana, but many weaknesses remain – weaknesses that will be made more important as oil money starts to flow. These weaknesses include problems adhering to the medium-term expenditure framework, the lack of a fully computerized financial management information system (still in a pilot phase after eight years), and the lack of a strong personnel and payroll management system.¹²⁴

Ghana's challenge of funding a national poverty reduction and development strategy beyond year-to-year budget decisions – already considered weak by many – will be strained by the volatility of oil revenues and the difficulties this will insert into the budget planning process. Ghana's recently completed 2009–11 Medium-Term Expenditure Framework (MTEF) does not make a provision for oil revenues. (The MTEF should reflect policy priorities; include budget ceilings; and provide certainty of funding to ministries, departments, and agencies.) One expert observer of Ghana's fiscal process has said that the MTEF "is not working at all" and that the Ministry of Finance and Economic Planning does not take it seriously. A Fiscal Responsibility Law, proposed by the government in 2007 but not yet enacted, would be an important step forward in that it would open the MTEF to public scrutiny and also provide important information to the public, including fiscal information from various government levels, decentralized government agencies, and state-owned enterprises. The law would also increase financial reporting and oversight arrangements and develop stronger mechanisms for dealing with misuse or misappropriation of public funds. Finally, the law could include a debt ceiling – for example, no more than 45 percent of GDP – that would be important going forward.

Revenue collection

Regarding revenue collection, Ghana has certainly invested in the tax authorities in the recent past, but there is consensus that more needs to be done to improve the government's ability to collect taxes and revenue from the natural resource sector and the rest of the economy. As the "easy money" from oil comes in, Ghana will have to be vigilant not to reduce efforts at non-oil tax collection as has happened in many other countries.

The World Bank and others have already identified weaknesses in revenue collection from the gold-mining sector. A 2008 World Bank report says that Ghana has lacked the capacity to properly collect revenues and audit payments from gold-mining companies during the past three years as gold prices more than doubled. The result has been that "increases in metal prices mainly translate into benefits for operators. Improving mining sector revenue management is key to translate mining investment in Ghana into sustainable development outcomes."¹²⁵ Significant capacity will need to be built within the Large Taxpayer Unit (LTU) to cope with the new challenge of revenue collection from the petroleum industry. (The LTU reports to the Revenue Agencies Governing Board.) With great latitude in the fiscal regime, and complex contracts, the IRS will need to be able to monitor a number of petroleum agreements with different fiscal terms.

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Budgets

While Ghana is not at the bottom of the table when it comes to budget management or budget transparency, much more needs to be done. One donor representative in Accra described Ghana's budget planning process and cash flow management as "weak." Estimates contributed by ministries, departments, and agencies are often not linked to budget discussions, and swings in the oil import price and the wage bill—especially before elections—have undermined the budget process. The revenue and expenditure forecasts will be made more difficult with the introduction of oil volatility into the budget (in addition to existing volatility from cocoa and gold price shocks).

Ghana scored only 49 percent on the Open Budget Index in 2008, a global survey of the transparency of budget information.¹²⁶ (Ghana has recently improved on one indicator by publishing a "citizen's guide" to the 2008 budget.) Based on research conducted by ISODEC's Centre for Budget Advocacy, the report found that while the executive's budget proposal provided substantial information to the public, many other important documents were either not produced or not available to the public. A pre-budget statement, mid-year report, year-end report and audit report were all not available to the public during 2007. As such, the report noted:

[It is] difficult for citizens to hold government accountable for its management of the public's money... Opportunities for citizen participation in budget debates could be increased. For example, the legislature does not hold hearings on the budget in which the public can participate. In addition, the independence of Ghana's Supreme Audit Institution is somewhat limited. The head of the SAI may be removed by the executive without the final consent of the judiciary or legislature, and the SAI does not have a budget sufficient to fulfill its mandate.

An important element of budget disclosure in the petroleum era will be disclosure of the oil price assumption, how it was reached, and what would be done with any surplus oil revenues during the year. (In Angola in the past, for example, large oil revenue surpluses fell outside the normal budget process.) For 2009, for example, Nigeria has chosen a \$45-per-barrel benchmark oil price for its budget.¹²⁷

Absorptive capacity

A key question for the budget system will be how much additional money from oil it can absorb. In Chad, the budget system was clearly not up to the test of the oil boom, with some ministries not being able to spend their allocations and others spending quickly—and poorly. In longtime producers such as Gabon, spending on social services is high in comparison with other African countries, but outcomes are low as a result of low value for money, wastage, and corruption.

One donor official describes Ghana as having serious absorptive capacity issues—especially in the health sector where there are "known problems"—and says that, at most, Ghana's budget and spending system could absorb an extra \$250 million to \$300 million per year from new oil money, but "nothing like \$400 million to \$500 million." With this in mind, it would appear that significant sums would have to be put into an oil savings or stabilization fund to avoid absorptive capacity problems.

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Procurement and corruption

As a recent US Senate report stated, “Ghana also suffers from challenging institutional capacity hurdles that will require considerable time and technical assistance to build to levels capable of administering effective management and oversight of its extractives, particularly hydrocarbons.”¹²⁸ Procurement and competitive bidding systems will need to be improved, as well as the ability of the government to conduct audits of government spending. The Serious Fraud Office has been underutilized and under-resourced and currently needs the approval of the attorney general to approve investigative cases. This could lead to a selection bias benefiting the ruling power, as the attorney general is appointed by the president. An independent Serious Fraud Office, with more resources and power to access government documents and information, would be an important oversight element to protect against abuses and corruption in the procurement and expenditures system.

Oil funds

Countries around the world have experimented with various types of natural resource funds to accomplish a number of objectives, with varying degrees of success or failure. Too often, governments see these funds as a panacea or substitute for strong public financial management systems and policy frameworks. These funds include budget stabilization funds, savings or “future generation funds,” and earmarked funds/regional development funds. Objectives of these funds are to do the following:

- Save money beyond what the budget system can absorb;
- Respond to weak budget and procurement systems and limited political accountability;
- Protect the economy from overheating;
- Protect the government budget from excessive volatility;
- Provide for “intergenerational equity”;
- Enhance transparency;
- Direct revenues to specific regions.

Ghana may need an oil fund or funds that address all or some of these issues. Policy makers have already indicated they will be developing a fund, although no details have emerged as to the type or design of the fund. Ghana’s 2008 budget statement addressed the issue:

Establishment of a Stabilization Fund: “... the economy remains exposed to external shocks as a result of volatility in commodity prices, compounded by an anticipated progressive reduction in donor inflows. ... Government will, in 2008, design a Stabilization Fund to serve as a measure to insulate the economy from external shocks – specifically the unpredictability of export earnings from our major exports, i.e. cocoa, gold, timber, and oil, in the near future.”¹²⁹

The planned fund has not yet been established. The draft GPRA bill states that “separate legal arrangements will be made for a revenue management

Too often, governments see oil funds as a panacea or substitute for strong public financial management systems and policy frameworks.

fund to be established by act of Parliament. The establishment of a fund in place before the revenue starts to impact the economy will help ensure that oil revenue does not fuel inflation or destabilize the economy.” Ghana’s ambassador to the US, Bawuah-Edusei, said in a US radio interview that “we intend to create a separate fund and get the majority of revenue from oil into it to then go into specific infrastructure development.”¹³⁰

In October 2008, the technical committee on the fiscal regime and fund types held a discussion with stakeholders about oil funds and a proposal for the first two years of oil production that would allocate two-thirds of all government petroleum revenues into the national budget and divide one-third between the petroleum regulatory authority to be established and the GNPC. The committee suggested “a cautious phasing of petroleum revenues into the economy, maximizing transparency and accountability, and balancing current needs and intergenerational equity.”¹³¹

Extractive industries and transparency issues in Ghana

Transparency underpins good governance, and Ghana has already recognized the importance of increasing transparency in the extractive industries through its participation in the global EITI. Ghana was an early and enthusiastic adopter of the EITI: in early 2007, Ghana produced an EITI report covering payments from the mining industry (gold, bauxite, manganese) for the first half of 2004, and Ghana officially became an EITI “candidate” country in September 2007. By 2008, Ghana had published its third EITI report – covering gold-mining payments in 2005. Civil society participants in the EITI in Ghana to date are frustrated with the sluggish process, the lack of high-level government attention, and the lack of follow-through when it comes to government’s implementation of recommendations in the EITI reports. Observers are worried that the EITI could become a hollow exercise without the reports leading to reforms.

With the coming oil production, Ghana must move to incorporate the petroleum sector into the EITI process, and signals from government during 2008 displayed a reluctance to include the sector in the EITI report. That said, a 2009 EITI work plan for Ghana includes incorporation of oil. Neither Tullow nor Kosmos have been approached by the government about the EITI, although neither has shown a reluctance to participate. Ghana has until March 2010 to undertake validation of its participation in the voluntary initiative, and petroleum payments will need to be included in the process. While the GNPC has distinguished itself through proactive publication of important summary information regarding the petroleum sector in Ghanaian newspapers during 2008, much more needs to be disclosed – payments, petroleum agreements, etc. – on a more regular and systematic basis. Civil society and church groups have been demanding greater access to petroleum sector information, including contracts. The Ghana Catholic Bishop’s Conference Dialogue and Advocacy Office for Good Governance said in December 2008 that “the public has the right to know the details of oil contracts, [but] such agreements are not placed in the public domain.”¹³²

“If we were to have transparency and if we were to get citizen groups to also participate in the way natural resources are managed, we will have little waste in the sector and channel more of the revenues into development projects.”

—Steve Manteaw, ISODEC (Ghana) and a member of the Ghana EITI steering committee

Should the IFC finance Kosmos Energy and/or Tullow Oil for their participation in the Jubilee field, IFC standards require the companies to disclose payments to the government of Ghana on an annual basis. For “significant” extractive industries projects, the IFC requires the disclosure of “relevant terms of key agreements that are of public concern.”¹³³ The IFC deems an extractive industries project to be “significant” when a project is “expected to account for 10 percent or more of government revenues.” It is likely that the Jubilee field, when fully operational, will contribute 10 percent or more of government revenues.¹³⁴

Beyond the extractive sector, Ghana is rated poorly in terms of access to information. A long-discussed freedom of information bill – introduced in 2003 and reintroduced in 2005 – has languished and critics have accused the government of stalling. A review of Ghana by the Open Society Initiative for West Africa says the following:

*Ghana performs poorly when it comes to providing access to official information for civil society organizations, journalists, or ordinary citizens. A comparative survey in 2006 found that Ghanaian government institutions only supplied full information in 9 percent of requests made, the worst performance of 14 countries.*¹³⁵

An active, independent and free civil society, combined with a strong independent media sector, will be vital to helping Ghana survive the governance challenges posed by the coming oil boom.

Role of civil society

Ghana is blessed with an active and vibrant civil society and grassroots sector, and many organizations have been involved in monitoring the social, environmental, and financial impact of the gold-mining industry. Civil society groups such as ISODEC, the Center for Democracy and Development, the Wassa Association of Communities Affected by Mining, the Ghana chapter of the global PWYP coalition, and many others are beginning to grapple with understanding the oil industry and its implications for Ghana’s development. In February 2008, many civil society groups, including nongovernmental organizations (NGOs), church groups, and organized labor, gathered in Mankessim, Ghana, for a workshop on the oil industry and their position on the preparations the government was making. A communiqué issued at the end of the meeting expressed deep concern at the closed-door nature of the National Forum on Oil and Gas Development. (See Appendix for the full text.) The communiqué went on to say the following:

Both government and civil society should work to strengthen their collaboration, keeping to their respective mandates, so that they will complement each other in their efforts at ensuring the best for this country. This will require that the government and state agencies demonstrate good will and willingness to provide information on its actions and plans, and to open the space for the democratic participation of citizens groups in the decisions and choices it will be making on behalf of the citizens. This way we are likely to achieve a collective ownership of the choices we make and to forge ahead in our national development aspirations with a unity of purpose. ... Key to the transparent and accountable management of extractive sector revenues, particularly oil and gas, is access to information.

An active, independent, and free civil society, combined with a strong independent media sector, will be vital to helping Ghana survive the governance challenges posed by the coming oil boom.

Role of donors

While oil companies have been scrambling to negotiate licenses with respect of Ghana's remaining oil blocks since the discovery of the Jubilee field, international donors have been scrambling to position themselves to assist the government in the management of the coming oil boom. The government of Norway, the World Bank, the IMF, the African Development Bank, the Commonwealth Secretariat, and the development agencies of the US, Germany, Britain, Canada, and others have all been involved or seeking to involve themselves in the oil discussions with the government. While a lot of assistance has been offered, the government has made few concrete requests and has so far preferred to develop homegrown proposals – such as the GPRA draft – using Ghanaian expertise.

Norway is seen as being closest to the government on oil sector issues and signed a memorandum of understanding (MOU) with Ghana in February 2008 on cooperation in the oil sector. (Ghana has also been interested in the experiences of Trinidad and Tobago, Malaysia, and other developing countries.)

The focus of Norway's Oil for Development assistance program is on capacity building in government institutions and the exchange of information and technical expertise. The MOU states that emphasis will be placed on "effective and transparent management of the sector" and that Norway and the government "will cooperate to ensure full transparency and accountability" in the cooperation program. The MOU outlines possible areas of assistance, including revising the legal framework, developing legislation on resource management and revenue management, defining the role of GNPC, and resolving conflicting interests related to different uses of the sea (petroleum and fish).¹³⁶

GTZ has been giving support to revenue collection reform efforts for four years and has offered to extend assistance to oil taxation. The World Bank, along with the Britain, France, Holland, and the EU, has an active program with the government on natural resources and environmental governance through a "development policy operation" loan providing \$31 million in 2008–9. The program is largely focused on the mining and forest sector in the first phase, but support to environmental regulation agencies, as well as efforts to improve revenue collection in the mining sector, may have an important spillover effect for the preparations for petroleum. The loan documents note that the program "will also support [Ghana's] efforts to address the emerging oil sector and to adopt a more holistic, integrated approach to the management of its extractive industries (i.e., an "EITI++" approach). This 'sector budget support' operation is an innovative approach to natural resources governance and an innovation for Ghana."¹³⁷

The government has in the past made the same request of several donors, and there has been at times limited information flow among donors. This could lead to a waste of donor resources, a lack of coordination, and ineffective or duplicative assistance programs. Also, companies from Norway, the US, Britain and other countries are involved in the petroleum sector, and some donors face conflicts of interest issues related to promoting both commercial access for companies and development assistance objectives in Ghana.

Social and environmental issues, communities, and rising local expectations

While Ghana's petroleum activity has been concentrated offshore, there are nonetheless important social and environmental issues to be addressed. Environmental laws and regulations will need to be reviewed and expanded to address the petroleum sector. The EPA, which has no experience or expertise with the environmental impacts of offshore oil and gas development, will need significant support to perform its important role. And the government will need to work hard to avoid conflicts between the petroleum industry and fishing communities in the offshore oil zones.

Ghana has found it difficult to regulate the gold-mining industry. There have been serious environmental impacts, including cyanide spills. In the past there has been poor coordination between the Minerals Commission and the EPA on Environmental Impact Assessments (EIAs). Offshore petroleum activities carry the risk of oil spills and other damages and will need strict management and oversight. It appears that no ESIA's have been done for the exploratory activities that have happened to date, and Oxfam America and ISODEC were unable to obtain any ESIA's for the existing oil drilling activity. In addition, there has been no indication that Ghana plans to develop a "strategic environmental and social action plan" for the entire offshore region, which will be important as the sector grows, the number of blocks licensed increases and the amount of exploration activity expands.

The IFC plans to move forward to consider \$215 million in financing for Kosmos and Tullow *before any ESIA has been completed for the project*. It has also categorized the two projects as "Category B" (projects expected to have limited adverse social and/or environmental impacts that can be readily addressed through mitigation measures) instead of "Category A" reserved for projects "expected to have significant adverse social and/or environmental impacts that are diverse, irreversible, or unprecedented."

Some environmental groups object to the IFC's categorization of the Tullow and Kosmos financing, saying that any major off-shore oil and gas project should be classified as Category A (as they routinely are at other institutions), and that bringing the project to a board vote prior to the completion of the EIA weakens international norms, since one of the basic purposes of an EIA is to determine whether, and under what conditions a project should be supported. (In the past, other IFC offshore oil projects have been placed in Category A and other private banks following the Equator Principles – social and environmental standards – have categorized some offshore oil projects, including Kashagan in the Caspian Sea, as Category A.) Some environmental groups are concerned that the Jubilee consortium proposes to utilize a used single hulled tanker for the FPSO, long after the world has shifted largely toward double-hulled tankers. Sandra Kloff and Clive Wicks, experts in the environmental management of offshore oil development and maritime oil transportation, have written that:

"[S]everal oil companies are planning to use old (25–28 years), converted single-hulled oil tankers as FPSOs for West Africa. These are mostly large oil tankers that

will not be allowed to operate anymore as conventional tankers by the year of 2007 thanks to International law. These tankers were initially intended to be sold for scrap. Currently there are no legally binding international rules for the design or hull configuration of FPSOs. The industry and some scientists are of the opinion that the climate and sea conditions of the West African region are benign. They conclude therefore that there is no need for new, purpose-built and double-hulled FPSOs in this particular region, whereas they do perceive a need for this in severe weather areas such as the North Sea, the North East Atlantic, the Gulf of Mexico and some parts of Australia. Other scientists are in disagreement with this point of view and believe that double-hulled FPSOs should be used as standard everywhere in the world. They furthermore argue that double-hulled FPSOs must be used as a precautionary measure especially in areas of important marine biodiversity and in regions where a high collision risk prevails because of dense maritime traffic. The West African Marine Eco System combines both these characteristics.”¹³⁸

Project sponsors also propose to dispose of harmful produced waters directly into the ocean. There are also concerns that the project is being considered by the IFC before a computer generated model of where any potential oil spills might go has been developed and before a spatial planning map showing all the key areas of biodiversity including main fish breeding grounds and fishing grounds has been completed. Such a model is considered a norm, and should show how a spill could impact on these areas.

Tullow Oil is responsible for developing the ESIA and, based on the ESIA, obtaining an environmental permit from Ghana’s EPA. Baseline data collection has been done but not fully analyzed or published. Baseline studies are a *prerequisite first step* in the environmental assessment process; indeed, it is impossible to develop a realistic assessment of project impacts and to determine necessary mitigation measures until the underlying baseline environment is known. According to the IFC, the ESIA is expected to be completed in August 2009 after a stakeholder engagement period of 100 days.¹³⁹ The IFC has required Kosmos to produce an “Environmental and Social Evaluation Report” which is not a substitute for a ESIA, as well as an “Action, Contingency, and Mitigation Plan.” It is unclear how useful this action plan will be without knowing the results of the ESIA and knowing what the impacts will be, and therefore, what action, contingency and mitigation will be required. The IFC argues that they can use their influence after project approval to amend the loan agreements based on the ESIA, but the IFC’s influence with companies is significantly reduced after the decision to finance.

Fishing is an important source of income for many coastal communities in the Western Region, a historically underdeveloped region of Ghana, near the Jubilee field. Already, the Jubilee consortium has had to manage incidents with fishing boats, including boats tying themselves to drilling platforms. The government has not made much effort to manage growing tensions between fishing communities, the oil companies, and local security forces, and it has not established clear “no-go areas” or rules for joint use of the sea. The IFC’s “Environmental and Social Review Summary” for proposed financing to Kosmos Energy released in December 2008 states that there will be 500 meter exclusion zones around drilling ships and a 1,000 meter exclusion zone around the FPSO.¹⁴⁰ There have been reports that the Ghana Navy has intercepted fishing boats and confiscated their catch for allegedly going too close to oil installations. Steve Manteaw from ISODEC

Fishing is an important source of income for many coastal communities in the Western Region, a historically under-developed region of Ghana, near the Jubilee field. Already, the Jubilee consortium has had to manage incidents with fishing boats, including boats tying themselves to drilling platforms.

has visited the region and reported that “fishermen returning from the sea had been accosted by the Navy, beaten up, and their catch taken away from them. In such instances the poor fishermen have had no recourse to justice.” He warns that “if claims and counterclaims are not properly handled, the situation could deteriorate into conflict.”

On shore, local district chiefs and politicians are already jockeying for position for a “right” to any earmarked benefits. The Ahanta West, Nzema East, and Jomoro Districts are all laying claims to be closest to the project and most deserving of compensation or earmarked benefits. Local chiefs who participated in the National Forum on Oil and Gas Development were well aware of the sorry state of mining communities in Ghana and insisted that they be treated differently. “We will not sit down for the wealth to elude us; we are ready to fight for what rightfully belongs to us,” says Asagyefo Ogyeahohoo, one of the traditional chiefs in a coastal community.¹⁴¹ “The battle has just begun.” Manteaw of ISODEC says, “Dialoguing with the communities to agree on a formula for distributing the oil wealth is a right that communities cannot be denied. ... [Excluding local communities in the decision-making process would] breed mistrust that could trigger the sort of conflict witnessed in Nigeria’s [Niger] Delta region.”¹⁴²

Expectations are rising in the Western Region, especially among the youth, that the emerging oil industry will provide jobs and other benefits. In addition, the local business class is eager to provide goods and services to add to the “local content” of the industry. Tullow is upgrading the Port of Takoradi to use it as a support base, and there will be some onshore facilities, but many Ghanaians are unaware of just how self-contained the offshore oil industry can be. Tullow estimates that there will 180–200 people directly employed by Tullow Ghana, with another 600–800 in-country personnel working for contractors.¹⁴³ With regard to gas utilization, projects may have a larger environmental footprint but offer more linkages to the rest of the economy than oil production.

Ghanaians are hopeful that the incipient tensions can be managed and that Ghana’s Western Region does not go the way of Nigeria’s conflict-ridden Niger Delta. The paramount chief of the Western Nzema Traditional Council, Awulae Annor Adjaye, whose area covers much of the coastal area near the Jubilee find, says that people are working to avoid the restiveness that has plagued Nigeria’s Niger Delta: “When the oil find was announced, some youths wanted to drop out of school for a job ... for the oil money. I believe we can avoid it [the Niger Delta situation] because we are already talking to the youths and pray that we will have a responsible government that will manage the oil revenue well.”¹⁴⁴

Expectations are rising in the Western Region, especially among the youth, that the emerging oil industry will provide jobs and other benefits.

Conclusions and recommendations

“ Ghana is different from other African countries. The public is wide awake. There are 30 dailies, 160 radio stations. The people are well educated—more so than in many other African countries—and there’s freedom and some level of transparency. ”

—George Yaw Owusu, Ghana country manager for Kosmos Energy¹⁴⁵

Many Ghanaians are justifiably proud of the achievements the country has made over the past two decades. A maturing but still young democracy that just passed an important test with the successfully run presidential and parliamentary elections in 2008, a parliament that actively debates important national issues, a free and vibrant press, and an active civil society are all assets that the country will need as it seeks to address the opportunities and threats that sudden oil wealth will bring. So far, the previous Kufuor government made broad, positive statements on the importance of ensuring transparency and accountability, and the new government appears committed to the same broad principles. The Kufuor government encouraged a confident, homegrown approach to confronting the challenges of the oil boom, tapping Ghanaian expertise to help in the cause. Some Ghanaian observers are hopeful that the new NDC government will carry through on promises of transparency and accountability and make major improvements to the draft oil policy and legal framework for the sector.

The stakes are very high. The IMF said in an October 2008 report that “the recent oil discovery could accelerate Ghana’s timetable for reaching middle-income status and the MDGs, provided it avoids the ‘oil curse’ of weak governance and boom-bust cycles.”¹⁴⁷ While many Ghanaian government officials are confident they can meet the challenge, oil’s threat to democratic development should not be underestimated.

While Ghana has achieved stability and positive growth rates, benefits have not been equally distributed, and inequality and poverty are still widespread. Demands are growing for greater social services and opportunities for the poor people who make up the majority of the population. The fiscal deficit and inflation have been growing, and tensions have been high during the election period, with the goal of controlling oil wealth adding to the stakes. The political transition in 2009 will add to the difficulties of quickly addressing oil’s challenges.

“Fundamental to Ghana deriving maximum value from oil and gas resources is ensuring a framework for the management of the sector that is free of corruption and is transparent. The principles of the Extractive Industries Transparency Initiative (EITI) will be among the bases for ensuring a transparent and equitable management of oil and gas revenues.”

—John Dramani Mahama, vice president of Ghana, during a campaign forum on energy, April 22, 2008¹⁴⁶

The onset of oil wealth tends to erode democratic accountability and institutions. Already, there are worrying developments. Local civil society groups are concerned that key information is not being disclosed and that important policy decisions will be made behind closed doors. The promised broad and inclusive process for the development of a fundamental policy and master plan for the oil and gas sector has been more closed than open to the Ghanaian public. Incipient tensions are on the rise in the Western Region, where fishing communities are concerned about continued access to the ocean's resources and district leaders are jockeying for a prime position as the "most affected" area.

Speed is important, but "haste makes waste"

The needed institutions, regulations, and transparency measures should be in place early on to avoid the corrosive and corrupting effects of oil booms seen elsewhere in Africa. Because the Jubilee field is in development, the government does need to move at deliberative speed to be able to manage this large project. At the same time, Ghana needs to be careful to *control the pace* of the development of the petroleum sector to avoid letting commercial developments outstrip the capacity of the government and society as a whole to meet the challenges.

In many ways, speed is not Ghana's friend. Ghana should set its own timetable for the further development of the petroleum sector. By moving quickly, Ghana could make mistakes that could decrease its take from the sector and undermine accountable management of the resource. A few examples:

- The government will need to **sequence tasks** in developing the laws, regulations, and institutions for the sector.
- Rather than negotiating many deals at once, the government can learn from experience and **negotiate better deals over time**. A common refrain is "he who drafts, wins," and Ghana can develop improved negotiation skills over time.
- **Allowing for civic participation** takes time but will benefit the country in the long run through better policy decisions and greater ownership of these decisions. The attitude that "there is too much to do and talking to civil society takes time" is ultimately counterproductive.
- **Regulations need to be in place before the impact**. Social and environmental regulations and protections need to be in place before projects get under way rather than after, as was the case with many gold-mining projects. Because of stabilization clauses, contracts signed now will lock in the currently deficient regulatory regime. Ghana does not want to license all of its petroleum acreage before the regulatory framework is in place.
- **Early spending could be bad spending**. If Ghana's budget and spending systems need improvement, massive early spending of oil money could prove to be wasteful spending.

Ghana needs to be careful to *control the pace* of the development of the petroleum sector to avoid letting commercial developments outstrip the capacity of the government and society as a whole to meet the challenges.

"Ghana faces daunting challenges to ensure that oil revenue is managed in a manner that will benefit current and future generations."

—US Senate Foreign Relations Committee staff report, 2008

Recommendations

With the above in mind, there are steps the government, donors, companies, and civil society actors should take to support the transparent, accountable, and efficient development of Ghana's oil wealth. While these steps are not a simple recipe for overcoming the threats posed by the coming oil boom, it is difficult to see Ghana succeeding without them.

For the government

Policy development

- Develop the policy principles, master plan, and regulations in sequence and as a package.
- Develop this policy framework for oil and gas with robust public, civil society, and parliamentary participation. Widely distribute drafts of key documents prior to their adoption, and engage civil society groups through formal mechanisms of inclusion.

Transparency

- Provide for regular publication of all material oil and gas payments received by the government or GNPC.
- Disclose the unitization agreement and field development plan for the Jubilee field.
- Disclose plans for taking *paid interest* in the Jubilee and other fields and how government interest will be financed.
- Disclose all petroleum agreements and licenses. The government will be in a better bargaining position and receive better outcomes if all actors know that agreements will be disclosed.
- Reject confidentiality clauses in new petroleum agreements and the revised model petroleum agreement, except in cases of proprietary technological information.
- Extend the Ghana EITI process to include oil and gas. Invite all oil and gas companies to participate in the process.
- Transform Ghana's voluntary EITI commitments into binding laws requiring disclosure. This could be done through the GPRA bill or a stand-alone EITI law.
- Disclose audits of the GNPC, the future GPRA and any future oil funds.
- Reintroduce and pass a strong Freedom of Information Act as supported by many Ghanaian civil society groups and journalists and as recommended by the country review report of the African Peer Review Mechanism.
- Make all disclosed information free of charge and available on government Web sites.

“The agreements must be made public; whatever is in the agreements should not be a secret thing hiding somewhere and the people don't know anything about it.”

—Awulae Annor Adjaye, paramount chief of the Western Nzema Traditional Area¹⁴⁸

Licensing and contracts

- Enact a moratorium on new exploration licenses to allow Ghana's legal and regulatory framework development process to catch up.
- Prepare for an open and competitive bidding round, and cease closed-door negotiated deals for offshore areas. There is enough interest in Ghana's oil industry to move from a secret process of negotiated deals to an open bidding round. As the Bank of Ghana has said, the government should consider "an auction of resource extraction rights before contracts are signed" to increase government returns from the sector.¹⁴⁹
- Reject stabilization clauses in petroleum agreements, except for fiscal terms. Ghanaians should not be penalized in the future because the petroleum and gas legal frameworks were underdeveloped when agreements were signed.
- Narrow the discretionary space on the fiscal terms to help prevent corruption in the negotiation process.
- Include the Ministry of Finance and Economic Planning, the attorney general, and other relevant agencies in petroleum agreement negotiations (through the provision of an explicit provision in the GPRA Act or other legislative vehicle).
- Ensure that Parliament maintains a meaningful role in approving all petroleum agreements.

Ghana should enact a moratorium on new exploration licenses to allow Ghana's legal and regulatory framework development process to catch up.

A national petroleum authority and the GNPC

- Ensure a separation of regulatory and commercial functions.
- Avoid conflicts of interest in the GPRA board.
- Reduce GNPC and presidential influence in the running of GPRA.
- Ensure an independent source of funding for the GPRA.
- Require that the GPRA share information with other parts of government.
- Establish a civil society position on the GPRA board.
- Develop clear roles and responsibilities for the GPRA that do not overlap with the GNPC, the National Petroleum Authority, the Energy Commission, or other government bodies.
- Strengthen the governance and accountability of the GNPC to bolster its roles as custodian of the state's participating interest; as marketer of the state's share of petroleum, where it is taken in kind; and as operator/investor for its own account.
- Require oil and gas companies to produce adequate ESIA's prior to decisions to move forward with projects.
- Allow GPRA meetings to be open to the public, and disclose board meeting notes and other information.
- Explicitly establish a role for Parliament regarding the GPRA, including

approving presidential appointments and auditing and monitoring GPRA performance.

Revenue collection, budgets, and expenditures

- Establish a Petroleum Tax Unit within the IRS, with sufficient capacity to monitor and enforce the fiscal regime, including monitoring of production and other payment determinants.
- Invest capacity-building resources so that the IRS can play its role in the sector and so that non-oil tax revenue does not decline.
- Pass a Fiscal Responsibility Law that would open the MTEF to public scrutiny; provide important fiscal information from various government levels, decentralized government agencies, and state-owned enterprises to the public; increase financial reporting and oversight arrangements; and develop stronger mechanisms for dealing with misuse or misappropriation of public funds.
- Meet all six indicators of the Open Budget Index to provide public access to budget information and increase opportunities for budget monitoring. This includes timely production and disclosure of a pre-budget statement; the executive's budget proposal; a citizen's guide to the budget; in-year reports; a midyear review; a year-end report; and the auditor's report.
- Publish an explanation for the oil benchmark price used in future budgets with oil revenue projects.

The fund operations should be fully transparent, with disclosure of money going in and out; the investment strategy and management system; and audits of the fund.

Oil funds

Any future funds used to save oil and gas revenues should follow some common-sense principles to avoid the mistakes that other countries have made. These include the following:

- Channel all oil revenues into a single fund.
- Adopt clear rules for moving money into and out of the fund. Clear rules for withdrawals are important. Equatorial Guinea has a "worst practice" experience with overseas banks holding oil funds that can be withdrawn with only the president's signature. Sao Tome has adopted a system of maximum annual withdrawals, and these withdrawals require four government signatures from different parts of the government.
- Integrate funds into the national budget. There should not be direct spending from the fund. Rather, money from the fund should flow to the budget using one yearly transfer based on an agreed-upon system or formula.
- Have the fund independently audited on a regular basis.
- Make the fund transparent. The fund operations should be fully transparent, with disclosure of money going in and out, the investment strategy and management system, and audits of the fund.
- Establish formalized civil society oversight. The government should include a space for formal civil society oversight of the fund, as has been the case in other countries, such as East Timor, Sao Tome and Principe, and Chad.

- Avoid conflicts of interest.
- Prohibit oil-backed loans. Loans that use money in the oil fund as collateral, or loans that mortgage future production, should be prohibited by law.
- Insulate the fund and its management arrangements from executive influence by placing them under parliamentary oversight.

Social and environmental issues

- The government should quickly establish an inclusive process to manage the conflicting uses of the sea – fishing, petroleum exploration and development, etc. – and contain incipient conflict. This negotiated process would lead to the clarification of no-go areas around petroleum installations and a specific compensation plan for fishing communities facing a loss of fishing rights.
- The government should require that ESIA's be completed before the commercial development of oil and gas fields begins, not after.
- All ESIA's should be made public and a strategic ESIA developed for Ghana's offshore oil acreage. ESIA's should be disclosed in languages and formats that are accessible by affected or potentially affected populations.
- For both onshore and offshore development, Ghana should ensure protection of critical environmental areas by establishing zones that are off limits to oil and gas development, including forest and wildlife reserves.

Respect free, prior and informed consent of communities before any licenses for onshore exploration are given.

Consent and compensation

- Respect free, prior, and informed consent of communities before any licenses for onshore exploration are given. Given the history of land and compensation disputes related to gold mining in Ghana, more robust protections for communities and landowners need to be built into the GPRA law.
- Develop clear compensation regulations with the participation of communities and civil society groups.

For Parliament

- Play an active role in the petroleum sector, providing a check to executive power.
- Develop expertise and advisory staff in the appropriate committees to play an active role. The Parliamentary Select Committee on Mines and Energy should have experts available to help analyze petroleum agreements and other technical aspects of the industry.
- Strengthen and maintain the authority to approve petroleum agreements.
- Include an active oversight role in the GPRA bill, including the power to approve or reject presidential appointments to the GPRA board.
- Reintroduce and pass a strong Freedom of Information Act.

For donors

- In exchange for technical assistance, insist on full transparency and participation of citizens and civil society in the decisions regarding the development of the petroleum sector and oversight of natural resource wealth.
- Encourage the Ghanaian government to extend the EITI to the oil and gas sector and to adopt the transparency steps above.
- Coordinate and share information to avoid duplication of effort and increase the impact of development assistance.
- Encourage home-country companies invested in Ghana to be transparent in their activities in Ghana.
- Actively support capacity building beyond government to include Parliament and civil society organizations.
- The World Bank should require full revenue and contract disclosure if it decides to partially finance the Jubilee field.

For companies

- Disclose all payments—in cash or in kind—to the Ghanaian government, as well as all petroleum agreements/licenses.
- Publicly endorse the EITI on a global level and participate in the Ghana EITI process.
- Conduct participatory and inclusive ESIA processes. Disclose information concerning environmental and social impacts, including any completed ESIA's.
- Establish an inclusive dialogue process with coastal communities in the Western Region regarding shared use of the sea, compensation for any lost livelihoods, and community development concerns.
- Conduct regular information sessions for civil society groups, journalists, parliamentarians, and others.
- Fully compensate individuals and communities for any negative impacts or loss of livelihoods as a result of petroleum-related activities.

For civil society and journalists

- Actively monitor government activities in the sector and build capacity to understand the petroleum sector.
- Develop sensitization programs for the broader public on petroleum issues to develop a constituency for oversight and reform.

“If you have a vibrant, engaged population, it becomes difficult for someone to hide wealth ... Everybody will be looking at it and making sure the money is going where it is supposed to go and used for what purposes it is intended. So that is what we intend to do in Ghana. We have a very vibrant press, education is free and compulsory, and together with NGOs and advocacy groups, I think will we be able to be more transparent than others.”

—Kwame Bawuah-Edusei, Ghana's ambassador to the US¹⁵⁰

Appendix

Ghana's 2008 Oil for Development Forum, Mankessim, February 22–23, 2008

We, the undersigned representatives of organized civil society groups in Ghana, having participated in a joint civil society, Ghana EITI Committee, and Parliamentary Select Committee on Mines and Energy preparatory workshop towards Ghana's Oil and Development Forum 2008, declare the following:

1. That, we are deeply disappointed at the amount of space ceded to organized citizens groups in this initial consultations dubbed the 'Ghana Oil and Development Forum.'
2. That, the forum should have been opened to the general public, as is done under the 'Peoples' Assembly' initiative every year.
3. That, going forward, there is the need to broaden the scope of consultations.
4. That, future consultations should involve more of the communities likely to be impacted by the oil exploration and development, either by way of livelihood loss or increased pressure on social amenities as oil production attracts migrant labour into the infrastructure and service sectors of the emerging oil industry. On the basis of experience from the minerals sector, most conflicts will likely be as a result of the exclusion of community people from decisions that are likely to affect their livelihoods.
5. That, the districts likely to be impacted by way of oil production and service infrastructure, livelihoods, and increased pressure on social services are clearly identified, and the form of compensation agreed and legislated to avoid conflicts as a result of claims and counter claims by neighbouring districts bordering the oil find.
6. That, we feel uneasy at the way conflicting figures of projected oil reserves are being thrown into the public domain by officialdom, as it has the potential of misleading the public and raising false hopes in the process.

7. That, costs being tabled by companies, which will eventually have to be recovered, are closely monitored and scrutinized to ensure that they are fair, just, and legitimate.
8. That, the capacity of our revenue-collecting agencies is enhanced in view of the new challenges oil revenue computation and collection will impose on them.
9. That, it is important to review and clarify the functions of state agencies in the energy sector, such as the Ghana National Petroleum Corporation, the Energy Commission, the National Petroleum Authority, the Technical Working Committee on Oil and Gas at the Castle, and the Ministry of Energy, and to define what institutional linkages ought to exist among them. This will ensure that potential conflicts arising from functional overlaps are avoided.
10. That, it is important to come clear now, as to whether the formulae for sharing mineral royalty will be applicable to the oil sector or whether a new formulae ought to be established.
11. That, the oil discovery makes it imperative for Ghana to have a national vision adopted through broad consultations, and a long-term development strategy and plan based on reliable information on expected oil revenue.
12. That, serious consideration be given to the setting up of an oil resource fund, backed by law, for future generations and price stabilization purposes.
13. That, Parliament ought to rise up to the occasion and exercise its oversight responsibility in the management of our newly found wealth in the national interest. We appeal to the Honorable Members of Parliament to bury their partisan differences and ensure that the nation derives maximum benefit from the oil discovery.
14. That, both government and civil society should work to strengthen their collaboration, keeping to their respective mandates, so that they will complement each other in their efforts at ensuring the best for this country. This will require that the government and state agencies demonstrate good will and willingness to provide information on its actions and plans, and to open the space for the democratic participation of citizens groups in the decisions and choices it will be making on behalf of the citizens. This way we are likely to achieve a collective ownership of the choices we make and to forge ahead in our national development aspirations with a unity of purpose.
15. That, key to the transparent, and accountable management of extractive sector revenues, particularly oil and gas, is access to information. We therefore urge government to muster the political will to get the Freedom of Information Bill enacted into law.
16. That, we the undersigned organized civil society actors, together with the Ghana EITI Steering Committee, and the Parliamentary Select Committee on Mines and Energy, have pledged at the Mankessim workshop to continue with our dialogue on matters that will arise as oil and gas production begins, with the view to safe-guarding the national interest.

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(1) Any transaction, contract or undertaking involving the grant of a right or concession by or on behalf of any person including the Government of Ghana, to any other person or body of persons howsoever described, for the exploitation of any mineral, water or other natural resource of Ghana made or entered into after the coming into force of this Constitution shall be subject to ratification by Parliament.
(2) Parliament may, by resolution supported by the votes of not less than two-thirds of all the members of Parliament, exempt from the provisions of clause (1) of this article any particular class of transactions, contracts or undertakings.
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Oxfam America's extractive industries campaign—Right to Know, Right to Decide campaign—helps local citizens with the information they need to weigh the costs versus the benefits of oil, gas, and mining developments, and to decide whether to provide consent for such projects. If they are consulted in advance, local people can decide whether they want companies to begin or expand operations on their land. And if they know how much companies are paying their government for their natural resources, they can call for a fair share of the proceeds to go to community needs like education, health care, and jobs.

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