

PETROLEUM TRANSPARENCY AND ACCOUNTABILITY INDEX

A Publication of The Institute of Economic Affairs

2011 PTRAC Report

The IEA P-TRAC Index 2011 Report

Tracking Transparency and Accountability in Ghana's Oil and Gas Industry

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Abstract

The P-TRAC Index is a project undertaken by the Institute of Economic Affairs Ghana (IEA) to promote transparency and accountability in the management of Ghana's oil and gas resources, and to enhance the level of responsibility on the part of the policy makers. The primary objective of the project is to develop qualitative and quantitative indicators that can be used to monitor aspects of the oil and gas value chain, namely, revenue transparency, expenditure transparency and contract transparency as well as transparency in the management of the heritage and stabilisation funds. This is the inaugural report in the series, providing a report on Ghana's management of its oil and gas resources for 2011, after one full year of production. This is the abridged version of the report. A full version of the report which includes, amongst other things, a list of data sources used, is also available at The IEA.



**IEA
Ghana**

The P-TRAC Index Report is an annual publication of The Institute of Economic Affairs, Ghana, an independent public policy institute. This is the abridged version of the report.

A full version of the report, providing a list of sources and the full questionnaire, is also available at The IEA. All enquiries should be directed to the Editor, The Institute of Economic Affairs, P.O. Box OS 1936, Accra.

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ISBN 9988-584-64-4

Executive Summary

The data for constructing the P-TRAC Index were collected with the aid of a detailed questionnaire (a full version of which is contained in the full report) which distinguishes four key components of the governance of Ghana's oil and gas resources. These are Revenue Transparency, Expenditure Transparency, Contract Transparency, and transparency in the management of the Heritage and Stabilisation Funds.

The concept of 'transparency' as used in this study is based on the provision of information to the public and the extent to which international best practice is used in the management of the oil and gas resources. The P-TRAC index is constructed as a simple average of the questions for each component. The score for each question is based on a number of criteria. These include whether a document, regular publication or online database provides the information demanded in the questionnaire, or whether the information is not available online but can be obtained upon request.

The average score for Revenue Transparency was 64.3%. This suggests that in relation to achieving transparency and accountability in managing the oil and gas revenues, there is considerable room for improvement. For example, there is the need to introduce further enabling legislation and to provide adequate resources to government bodies charged with monitoring the oil and gas revenues.

The average score for Expenditure Transparency was 63.9%. This score was affected by the low score on frequency of reporting, which indicates

that this is an area where future improvements can be made.

The average score for Contract Transparency was 66.7%. There are a number of areas where improvements are required. These include more public disclosure of information on contracts, including negotiated terms for exploration and production, as well as the licensing process. There is also a need for transparency in the assessment of contracts, including allowance for an appeal process.

The average score for the Heritage and Stabilisation Funds was 44%. This is the lowest score of the four components of the index, which indicates that a lot needs to be done in terms of increasing transparency in the reporting of the management of the funds.

The overall 2011 score for transparency in the oil and gas industry came to 59.7%. Our conclusion is that some progress has been made in the past year to enhance transparency in the management of Ghana's oil and gas resources. However, our study reveals a number of areas where further improvements can be made to raise the level of transparency and accountability.

Going forward, this result should be viewed as a reference point from which we can judge progress being made to improve the management of the oil and gas resources.

Policy Recommendations

The study makes the following policy recommendations:

- Rec 1** Although there is no statutory mandate for agencies such as the Ministry of Energy, Ghana National Petroleum Commission, and the Ghana Revenue Authority to publish information (e.g., prices, volumes, production costs, taxes) on the oil and gas industry on their websites, **we strongly recommend frequent publication of information by all line agencies to enhance transparency and accountability.**
- Rec 2** **Efforts should be made to build the capacity of and adequately provide resources for key public agencies** such as the Petroleum Commission, the Public Interest Accountability Committee (PIAC) and the Public Accounts Committee (PAC) that have oversight responsibilities over the oil and gas industry.
- Rec 3** **We strongly advocate speedy passage of key pieces of legislation** such as the Petroleum Exploration and Production Bill, the Local Content and Local Participation Policy Framework, the Right to Information Bill, the Ghana EITI and the Marine Pollution Bill. Passage of these Bills into law will greatly enhance transparency and accountability in the oil and gas industry.
- Rec 4** **We recommend passage of the Budget Act** to promote more comprehensive scrutiny of the budget.
- Rec 5** **Public disclosure of information on oil and gas contracts and the licensing process needs to be improved.**
- Rec 6** **We advocate a more open and transparent licensing process** to prevent the abuse of discretionary powers by the licensing authority. We recommend a points system for assessing licenses, including allowance for an appeal process.
- Rec 7** **The BoG should publish timely reports** on the Ghana Heritage and Stabilisation funds.
- Rec 8** **The Auditor-General should publish the audited reports** on the Ghana Heritage and Stabilisation funds. Under the PRMA, these reports are to be published but to date that has not been done.
- Rec 9** **The Minister of Finance should also publish timely reports on the petroleum receipts.**
- Rec 10** **The PIAC and CSOs should regularly use this Index as a tool to assess progress in achieving transparency and accountability** in the management of Ghana's oil and gas resources.

1 Introduction

1.1 Background

Ghana joined the ranks of oil producers in December 2010 with the lifting of first oil from the Jubilee Phase I oil field. Initial output was 50,000 barrels of oil per day (bopd), which rose to about 70,000 bopd. Oil production was expected to plateau at 120,000 bopd by mid 2012. However, in January 2012 the operator, Tullow Oil PLC, announced that it would be impossible to meet that target. The company explained that production for 2012 would peak around 90,000 bopd due to some technical difficulties that have been encountered with some of the production wells.

Since the commencement of oil exports in late 2010, more discoveries have been made in the Deep Tano/West Cape Three Points area (Figure 1). In September 2010, Tullow Oil announced the discovery of oil in its Owo field which it referred to as the largest light oil discovery in Africa since the discovery of the Jubilee oil field in 2007. The Owo field is estimated to hold between 70 and 550 million barrels of light sweet and high quality crude. Earlier on in 2010, Lukoil of Russia had announced an oil find in its Dzata field in the West Cape Three Points block.

On June 6, 2011, Kosmos Energy LLC announced a find in its Banda-1 well. This was followed the next day with an announcement by Hess Corporation of New York that it had

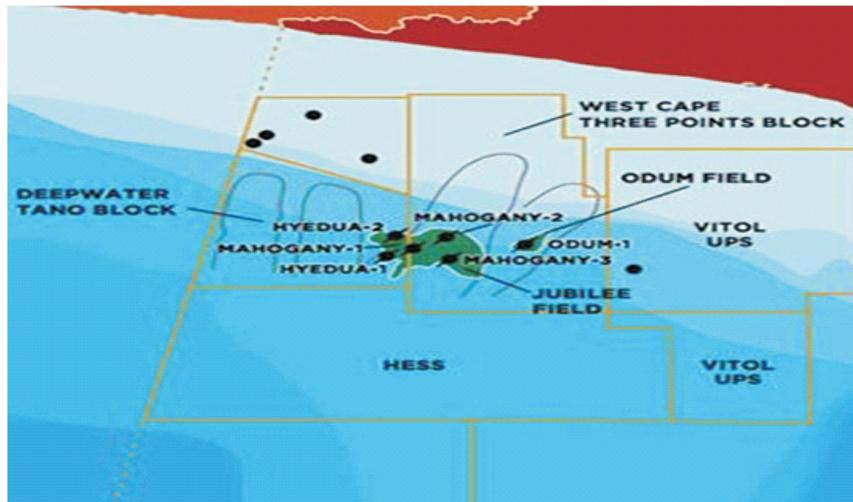
discovered significant amounts of oil and gas resources much bigger than previous estimates. Anadarko Petroleum Corporation also announced in August 2011 that it had made a significant oil find in its Akasa-1 exploration well on the West Cape Three Points Block. Other oil finds in the same area in 2011 were made by Eni Ghana/Vitol and Tullow Oil PLC. These recent discoveries point to the significant potential of the Deep Tano/West Cape Three Points area, as well as other parts of Ghana in terms of oil and gas resources.¹

Natural resource exploitation, in general, and oil and gas production, in particular, presents a number of socioeconomic challenges to governments. The first is the so-called 'Dutch Disease' (Corden and Neary, 1982) whereby large inflows of revenues associated with the resource extraction leads to the appreciation of the real exchange rate, making imports cheaper. This has an adverse impact on domestic production of goods and services. In general, a booming sector such as petroleum will be associated with high rates of returns, which tends to draw resources (labour and investment) from other productive sectors (e.g., agriculture) leading to the decline of those sectors.

Secondly, oil presents an additional challenge to the management of a country's budget because its price tends to be volatile. Failure to make provision for such volatility could put a country

¹ Initial exploration for oil in Ghana began in 1896. Since the discovery of the Jubilee Field in 2007, numerous licenses have been granted for oil exploration along the coast of Ghana and onshore in the Volta River basin.

Figure 1: Location of the Jubilee Field



Source: <http://images.rigzone.com/images/news/library/maps/13/6096.jpg>

in financial stress when the price of oil collapses, as can happen in certain periods of external crisis.

Thirdly, a natural resource discovery such as oil and gas can lead to rent seeking activities in both the public and private sectors, resulting in an increase in corruption (Dunning, 2008). Empirical studies (e.g., Ross, 2006; Humphreys, 2005; Collier and Bannon, 2003; Sacks and Warner, 2001) have documented how natural resources have been instrumental in fuelling civil conflict.

However, new evidence points to pathways by which the so-called 'Resource Curse' can be averted. For example, it has been shown that by improving the quality of institutions, enforcing the rule of law, and improving transparency and accountability, a country can minimise the adverse impacts of resource extraction and avoid the resource curse (Sala-i-Martin, 2003; Humphreys et al., 2007; IMF, 2007).

1.2 Objectives of the P-TRAC Index

Against this background, the Institute of Economic Affairs (IEA) has embarked on the Petroleum Transparency and Accountability (P-TRAC) Index project to promote transparency and accountability in the management of Ghana's newly discovered oil and gas resources, and to enhance the level of responsibility on the part of the policy makers.

The primary objective of the project is to develop qualitative and quantitative indicators that can be used to monitor three aspects of the oil and gas value chain, namely, revenue transparency, expenditure transparency and contract transparency. It is intended that the Index will be published and publicised on an annual basis.

A secondary objective is that the Index will be used as a tool by the Public Interest Accountability Committee (PIAC) and other interested groups to monitor developments in

the industry and to demand accountability from the authorities and officials of the sector. This report, which is the inaugural report in the series, provides a scorecard on the level of transparency and accountability in the management of Ghana's oil resource after one full year of production.

1.3 Why Improving Transparency and Accountability in the Oil and Gas Sector is Important

Improving transparency has a number of benefits. For example, Islam (2003) found a significant statistical correlation between transparency, defined as the existence of Freedom of Information laws and frequent publication of government economic data, and the quality of governance.

A study by Bellver and Kaufmann (2005) found that increased transparency is associated with lower corruption levels and improved levels of socioeconomic and human development indicators. Glennerster and Shin (2008) found an association between greater fiscal transparency and improved perceptions of a country's economic conditions, while Islam (2003) showed that improved transparency increases a country's credit ratings, enhances fiscal discipline, and reduces corruption.

Finally, Hameed (2003) and Kurtzman and Yago (2007) have found a positive association between transparency and economic growth.

One of the challenges that the government faces with the discovery of the oil and gas resources is

how to manage the sudden increase in the hopes and aspirations of the citizens. We are strongly of the view that one of the ways of managing these expectations appropriately is to improve governance and promote transparency and accountability in the management of the resource.

Much of the civil strife associated with oil that has been witnessed in our region is due to mistrust of government stewardship and the uneven distribution of the revenues. Transparency in the form of the provision of adequate information to people enables them to scrutinise the government's management of the resource and hold it accountable for any lapses.

The government also benefits from being transparent in that trust is built with the people, while the people, on the other hand, can form realistic expectations based on the provision of reliable and timely information.

1.4 Outline of the Report

The report is structured as follows. Section 2 briefly discusses the methodology underlying the construction of the P-TRAC Index. The Index is based on a combination of qualitative and quantitative indicators and this section devotes some space to a discussion of the rationale underlying the measurement of these indicators, as well as the method of scoring and the research process. The results of the assessment are presented and discussed in Section 3, while the conclusions and recommendations are contained in Section 4.

2 Methodology

The data for constructing the P-TRAC Index were collected with the aid of a detailed questionnaire. In coming up with the Index, we followed closely the conventions recently proposed by the Extractive Industries Transparency Initiative (EITI), the 'Publish What You Pay' campaign and the IMF's Guide on Resource Revenue Transparency (IMF, 2007). It also draws from the indices which have been implemented by the Revenue Watch Institute (Revenue Watch Index) and the International Budget Partnership (Open Budget Survey).

The P-TRAC questionnaire distinguishes four aspects of the governance of Ghana's oil and gas resources. These are Revenue Transparency, Expenditure Transparency, Contract Transparency, and management of the Heritage and Stabilisation Funds.

The concept of 'transparency' as used in this study is based on the provision of information to the public and the extent to which international best practice is used in the management of the oil and gas resources.

Our definition of 'publicly available information' is similar to the norms used by the Revenue Watch Institute and the International Budget Partnership. For this index, we define 'publicly available information' to be information on oil and gas governance that can be freely obtained by any citizen from the relevant government agency's website, or which can be obtained in hard copy form by request, or which is published on a regular

basis in national newspapers.

We now briefly discuss the components of the P-TRAC index.

2.1 Revenue Transparency

This aspect of the index addresses issues relating to the frequency, quality and public availability of published reports, and also assesses the institutional environment. In terms of reports, questions are asked about the following: oil reserves; inflow of oil revenues to government (royalties, bonus payments, taxes, etc); effectiveness of laws, regulations, and administrative rules governing the oil sector; and operations and governance of Ghana National Petroleum Corporation (GNPC).

With the exception of frequency of reports, which is assessed on a 3-point scale, all the other questions are assessed on a 6-point scale. A score "0" denotes lack of a desired characteristic and "5" denotes the presence of the most desired characteristic.

2.2 Expenditure Transparency

To assess expenditure transparency, we employ a similar approach to that used for revenue transparency in that we seek information on the frequency and quality of the reports on the expenditures. In addition, we move a step further, compared to other indices such as the Revenue Watch Index, to assess how the oil and gas revenues are spent. All the questions are assessed on a 6-point scale.

2.3 Contract Transparency

The aim of this section of the questionnaire is to ascertain the extent of transparency in the award of contracts in the oil and gas sector based on a series of nine questions. The questions are scored on a 6-point scale with “0” representing No and “5” representing complete agreement with the statement.

2.4 Heritage and Stabilisation Funds

The final set of questions is concerned with the management of the Heritage and Stabilisation Funds. The questions enquire about various aspects of the funds, including whether the rules governing the funds are publicly available, whether the authority in charge of the funds publishes information on the activities and performance of the Funds, whether the funds' financial reports are audited, while the final question asks whether the audited reports are published. As usual, the questions are scored on a 6-point scale with “0” representing No and “5” representing Excellent.

2.5 Method of Scoring

Based on this questionnaire design, the P-TRAC index is constructed as a simple average of the questions for each component. The score for each question is based on a number of criteria. These

include whether a document, regular publication or online database provides the information demanded in the questionnaire, or whether the information is not available online but can be obtained upon request. Each score on a 4- or 6-point scale is then converted into a percentage score as shown in the tables below.

2.6 The Research Process

The draft questionnaire was circulated amongst stakeholders (Government bodies, oil companies, civil society organisations, industry groups, etc) for their comments and inputs. A final questionnaire was then produced to begin the research process. The data were obtained by visiting the websites of the various agencies, through written requests to them, and in some cases through interviews.

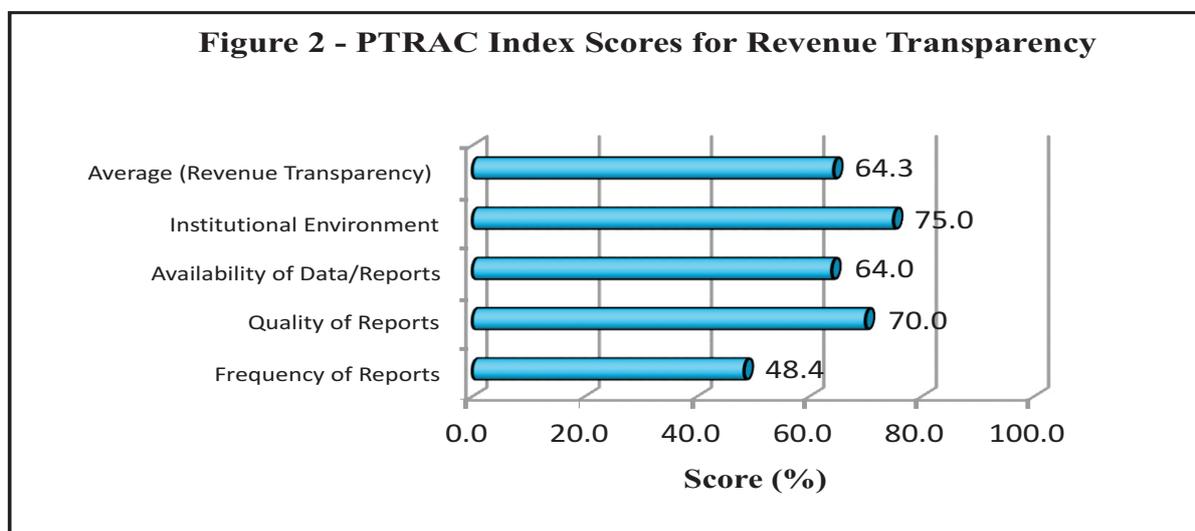
Each score was backed by documented evidence that included the following forms: a law or other public document available on a website or in physical form; a public statement by a government official; or a face-to-face interview with a government official, legislators or other knowledgeable parties. Once the questionnaire was completed, the research team undertook an analysis of each question to determine the value of the score.

Score	0	1	2	3
Percentage	0	33	66	100

Score	0	1	2	3	4	5
Percentage	0	20	40	60	80	100

3 Results

3.1 Revenue Transparency



Frequency of Reports

There are seven questions on the P-TRAC Index to assess the frequency of reporting by the relevant agencies on various aspects of the oil and gas industry. The first of these is on reports on revenue generation by the Ministry of Finance and Economic Planning (MoFEP). According to Subsections 8(1) and (2) of the Petroleum Revenue Management Act 2011 (PRMA), the Minister of Finance is required to publish petroleum receipts in the Gazette, two national newspapers and online within 30 calendar days of the end of each applicable quarter. Our overall assessment of the reporting requirements by the Minister of Finance is that they have largely been met. As such we gave this item the maximum score of 3 or 100%.

The next set of questions deal with reporting on oil and gas reserves, production volumes, prices, value of exports, royalties, taxes and dividends.

The 2012 Budget Statement and Economic Policy did not include any information on Ghana's oil and gas reserves, although such information was published online by the Ministry of Energy and GNPC. MoFEP, BoG, and GNPC regularly published information on production volumes, while MoFEP and GNPC published information on prices. The only agency to publish information on the value of exports was BoG. Regular information on royalties was found on the websites of MoFEP and GNPC.

On the issue of taxes, a portion on corporate taxes was contained in the Petroleum Receipt Report by MoFEP, although no information was provided. The Minister in his 2012 Budget presentation made projections for corporate income tax to the tune of GH¢384.11 million².

² Currently, the oil companies are exempt from paying Corporate Income taxes when they have not declared profits. They have five years to offset their costs, which include expenditures incurred during the exploration period. However, if they start making a profit before the end of the five-year tax exemption period, they will then be required to pay income taxes.

In relation to dividends, none of the agencies published information on the government's dividends from its stake in the oil and gas resources. Individual scores for each of these organisations range from 0 (0%) to 3 (100%).

The final two questions of this component assess the frequency of reports on the government's share of revenues and the costs associated with oil production. Information on the government's share of the oil and gas revenues was published by MoFEP and GNPC, but not by BoG. The maximum score of 3 (100%) was therefore assigned to the first two agencies. In relation to production costs, no information was published by any of the agencies and hence scores of zero were assigned.

From the foregoing, the average index computed for Frequency of Reports came to 1.5 out of a possible 3, which translates into a score of 48.4% (Figure 2), which is relatively low. The PRMA requires the Bank of Ghana (BoG) and the Investment Advisory Commission (IAC) to submit quarterly, semi-annual and annual reports to MoFEP. Information to be made public includes a quarterly report of petroleum receipts, an annual reconciliation report of the actual total petroleum receipts, the ABFA and an annual report on the Petroleum Funds (as part of the Budget Statement). Therefore, although the various agencies have complied with the legislation, best

practice requires that such information be made publicly available on a frequent basis.

Quality of Reports

We found the reports compiled by MoFEP to be somewhat understandable. However, most of the information was fairly technical and numerical in nature. For example, in the report on petroleum receipts published in the two newspapers, it would have been desirable for the tabular information to be accompanied by footnotes or short narratives to explain the more technical aspects of the report.

Overall, we found the published information to be comprehensive, although we did not assign the maximum score in this case because, as indicated above, some relevant information (e.g., on dividends and costs) was not made available. The average index for Quality of Reports was therefore 3.5 out of a possible 5, resulting in a score of 70%.

Public Availability of Reports

The next set of questions assessed the public availability of the reports published by the various government agencies. For all, except the Ghana Revenue Authority, the reports were publicly available in varying degrees. This therefore resulted in an average index of 3.2 out of a possible 5, yielding a score of 64%.

Institutional Environment

The final questions assessed the institutional environment for the management of the oil and gas resources. As per PNDC Laws 64 (Petroleum Exploration and Production Law) and 84 (Ghana National Petroleum Corporation Law), the Ministry of Energy oversees Ghana's petroleum sector and is responsible for providing policy direction, while GNPC is assigned responsibility for commercial activities in the sector.

Following the institution of the Petroleum Commission Act 821, the Petroleum Commission was established in 2011 to carry out regulatory activities in the sector. Among other key functions, the Commission is also responsible for receiving applications and issuing permits for specific petroleum activities to that effect.

Against this background, there are questions covering the following: the extent of the division of the policy, commercial and regulatory roles across government agencies; the amount of legislation in place; whether the government publishes detailed oil and gas legislation; whether the government agency in charge of receiving payments from oil companies (i.e. BoG) has internal controls in place to monitor assets and prevent fraud; whether there is independent external validation of internal controls of agencies in charge of receiving payments from oil companies; whether payments by oil companies to the government (through BoG) are subject to an independent audit; whether a parliamentary committee scrutinizes audit reports on oil and gas-

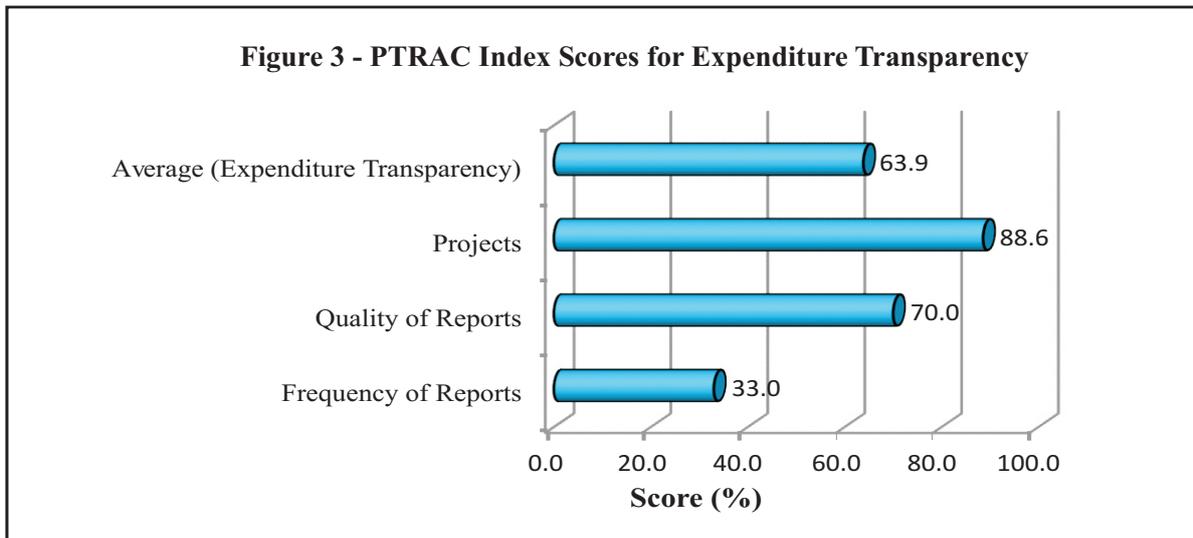
related revenues; and whether Civil Society Organisations (CSOs) participate in the oversight of revenue generation.

We found that much effort has gone into creating an appropriate environment to achieve the best out of Ghana's oil and gas resources. Although we found the PRMA to be a significant piece of legislation, there is a raft of legislative instruments in the pipeline, passage of which would enhance the institutional environment in the oil and gas sector. These include the Petroleum Exploration and Production Bill, the Local Content and Local Participation Policy Framework, the Marine Pollution Bill, The Ghana EITI Act and the Right to Information Bill.

The average index for the Institutional Environment came to 3.8, which translates to a score of 75%. This section achieves the highest score in the Revenue Transparency component of the P-TRAC Index.

The overall score for Revenue Transparency, obtained by averaging the scores for the four components, was 64.3% (see Figure 6 below). This suggests that in relation to achieving transparency and accountability in managing the oil and gas revenues, there is considerable room for improvement. For example, there is the need to introduce further enabling legislation and to provide adequate resources to government bodies charged with monitoring the oil and gas revenues.

3.2 Expenditure Transparency



Frequency of Reports

The question here relates to how often the reports on expenditures from the government's share of oil and gas revenues are published by MoFEP. The Minister, in fulfilling his constitutional mandate (under Article 179 of the 1992 Constitution), is required to present a Budget Statement and Economic Policy to Parliament each year.

This legal requirement was met in the 2012 Budget Statement as far as reporting on oil and gas revenues is concerned. However, best practice calls for more frequent reporting and as such we gave this item a score of 1 out of a possible 3, which is equivalent to 33%.

Quality of Reports

The two questions in this section ask whether the published reports on the oil and gas expenditures are understandable and comprehensive. We found the information in the report pertaining to oil expenditures to be understandable and gave this a

score of 4. Although the information presented in the report was significant, some aspects of it were not comprehensive. For example, more information could have been provided under the expenditure on Agricultural Modernisation and the set up of the Ghana Gas Company. We therefore gave this item a score of 3 out of 5. The average index was 3.5 out of 5, giving a score of 70%.

Projects

The questions in this section focus on the number of projects receiving funding from the oil and gas revenues, their locations, whether they are in the priority areas and the extent of their potential developmental impacts. There are also questions to assess the regional distribution of the projects, whether Parliament ratifies the expenditures, whether CSOs participate in the development and oversight of the expenditure program, and lastly, whether

there are specific oil-related and developmental expenditures in the area where the oil and gas resources are extracted (i.e., the Western Region).

Twenty six projects were identified in the 2012 Budget Statement and they were all in the priority areas, as required in the PRMA (ss 21, 1-3). All the 26 projects were adjudged to have significant developmental impacts. There was a fairly even spatial distribution of projects across the ten regions of Ghana. With regards to Parliamentary ratification, although Parliament plays a significant role in the budget processes right from the approval stage through to the implementation stage, there is a need for an increase in the amendment powers of the House. In practice, the current tendency is to rubber stamp the budget. It is commendable to note that Parliament is advocating for the urgent passage of the Budget Act. The Budget Act when passed will help increase Parliament's capacity for budgetary analysis and review, and also enable it to be part of the entire budget cycle.

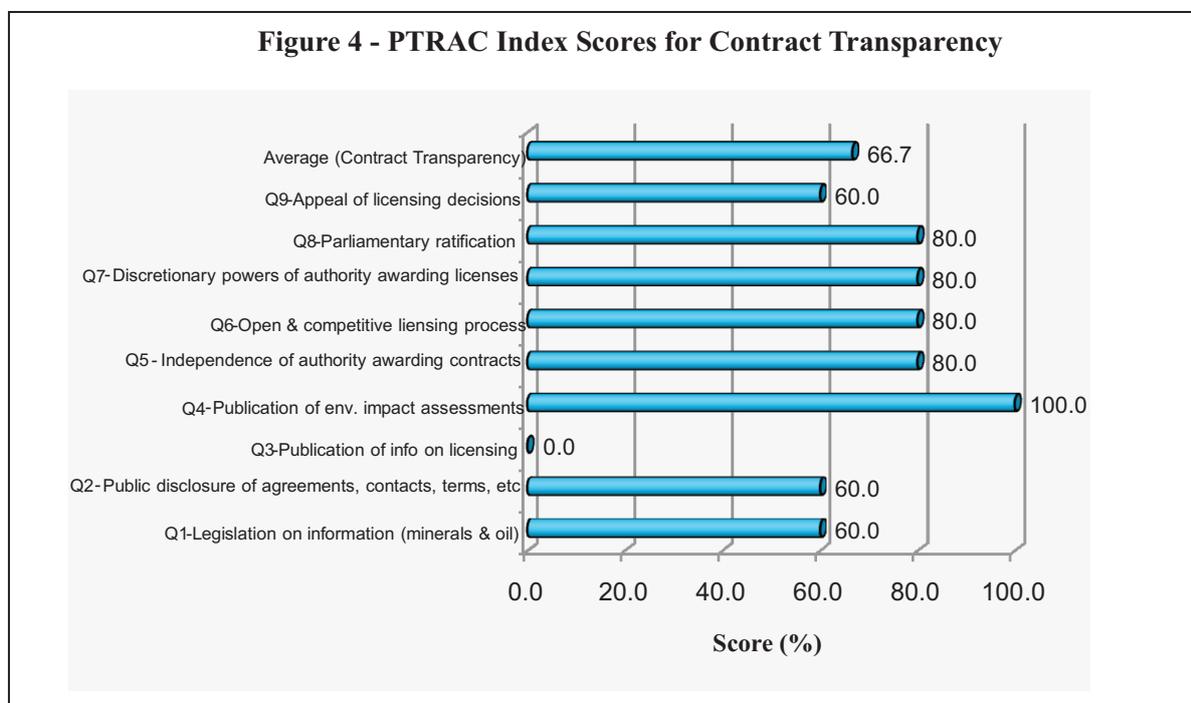
In relation to CSOs' participation, the current legal framework does not provide a clearly defined role for CSOs and other industry groups' critical engagement in the budget process. Nonetheless, the past and current governments have demonstrated great commitment towards ensuring the active participation of key stakeholders such as

civil society groups.

Analysis of the 2012 Budget Statement reveals that a total of GH¢16.95 million, equivalent to 10% of the ABFA, was allocated to road infrastructure projects in the Western Region. In addition, the region is the location of the National Gas Company. Although the Budget Statement was specific about details of regional expenditures on road infrastructure in the Western Region, it was not clear though how the region benefitted from the other priority areas, particularly, Agricultural Modernization and Capacity Building (including Oil and Gas). Under the US\$3 billion Term Loan Facility from the China Development Bank, which is to be repaid with future oil revenue, 7 of the 12 eligible infrastructure development projects are to be undertaken in the Western Region.

The average index score for Projects was 4.4 out of 5, which is equivalent to a score of 88.6%. Finally, the overall score for Expenditure Transparency, obtained by averaging the scores for the three components (Frequency of Reports, Quality of Reports and Projects), was 63.9%. The overall score for Expenditure Transparency was affected by the low score on frequency of reporting, which indicates that this is an area where improvements can be made in the future.

3.3 Contract Transparency



The assessment of Contract Transparency focuses on the public disclosure of information on contracts. The first question relates to whether Ghana has adopted a rule or legislation that provides for disclosure of information in the oil, gas and mineral sectors. There is currently no law that demands full disclosure of information in the oil and gas sector.

The PRMA focuses on petroleum revenues and does not deal with other aspects of the oil and gas sector. There is therefore an urgent need for Government to pass the Right to Information Bill into a law so as to promote full disclosure of Government held information, including information relating to the management of the oil and gas sector. Our assessment of this question therefore resulted in a score of 3 out of 5, or 60%.

On the question of whether contracts, agreements or negotiated terms for exploration and production are disclosed to the public, there is currently no provision for public disclosure in any of the legal frameworks regulating petroleum activities in Ghana. However, copies of the negotiated agreements can be obtained upon request from the Library of the office of Parliament. The Ministry of Energy also releases such agreements upon request. Our view of this issue is that there is currently some disclosure of information, but more is required. We therefore assigned this item a score of 3 out of 5, equivalent to a score of 60%.

On whether the government publishes information during the licensing process, we found that the Government does not publish any

information during the licensing process. The only stage where some information might be publicly disclosed during the licensing process is when the draft agreement is sent to Parliament for ratification. In this case a transparent licensing process would be helpful to prevent the abuse of the discretionary powers by the licensing authority. We therefore gave this question a score of zero.

In regard to whether reports with assessments of the expected environmental and/or social impacts of oil and gas projects are published, we found online the EIA reports by the Jubilee Partners (Tullow Oil and Kosmos Energy). The Jubilee Field Draft EIA Non-Technical Executive Summary is also available at the EPA's website. We therefore gave this question the maximum score of 5 (100%).

Question five enquires whether the authority in charge of awarding licenses or contracts for oil and gas production is independent of GNPC or other operating companies. This is indeed the case as the Petroleum Commission is charged with assessing applications, after which it makes recommendations to the Minister of Energy. However, we did not give the maximum score for this question because we believe that the Commission is yet to build up the desired capacity to effectively exercise its constitutional mandate. We therefore gave this question a score of 4 (80%). The sixth question is on whether the licensing process is intended to be open and competitive to

all interested companies. The government currently negotiates in private with interested parties and information on the process is not generally disclosed. However, the proposed Petroleum Exploration and Production Bill may propose a two-tier licensing process: (i) for known areas, an open and competitive bidding method (auction) will be used; and (ii) for unexplored areas, the existing process will be used. We gave this question a score of 4 (80%). Although significant progress has been made on making the licensing process competitive, there is still room for improvement.

Question seven enquires whether the licensing process or legislation imposes limits to discretionary powers of the authority in charge of awarding licenses or contracts. As per Article 268(1) of the 1992 Constitution, a petroleum agreement can only become effective after it has been approved by Cabinet and ratified by Parliament. This requirement, to some extent, limits the discretionary power of the issuing authorities.

However, the entire process before signing and submitting the draft petroleum agreement to Cabinet and Parliament is mostly at the discretion of the issuing authorities, notably, the Petroleum Commission and the Ministry of Energy. We therefore assigned a score of 4 (80%) to this question.

The penultimate question of this component

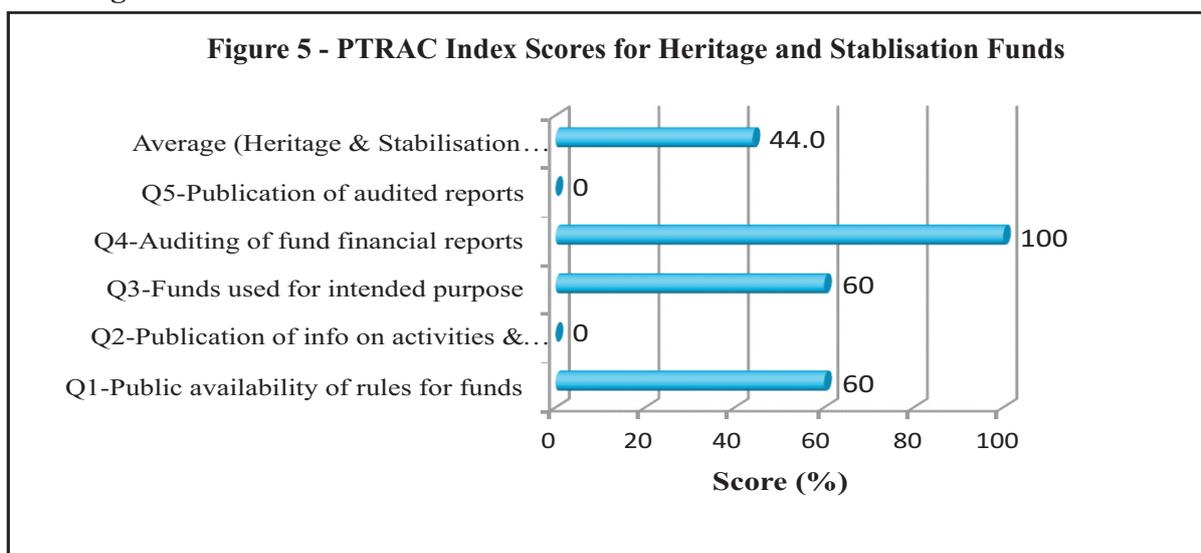
asks whether Parliament has the authority to ratify oil and gas contracts. Article 268(1) of the 1992 Constitution requires Parliament's ratification before a contract, transaction for the exploitation of any mineral, water or other natural resource in Ghana becomes effective. Section 19(5) of the Petroleum Exploration and Production Bill (2010) also requires Parliamentary ratification before any petroleum agreement entered into by the Minister of Energy takes effect. Therefore current legislation gives Parliament opportunity to scrutinise oil and gas contracts before they become effective. However, the research department of Parliament needs to be resourced in order to assist Parliament to effectively carry out the task of assessing oil and gas contracts. We therefore scored this item 4 (80%).

The final question enquires whether there is a process to appeal licensing decisions. Section 20 of the Petroleum Commission Act makes room for appeal of the licensing decisions made by the

Commission. The Minister has 30 days to respond and the complainant can also contest the decision in a court of law. In spite of these provisions, there is a need for Government to adopt a proper and fair points system in the assessment of license applications. The licensing authority should also be required to give concrete explanations upon any rejection of an application. We therefore gave this question a score of 3 out of a possible 5, which is equivalent to a score of 60%.

The average index for the nine questions on Contract Transparency was 3.3 out of a maximum of 5, which translates to a score of 66.7% (Figure 4). There are a number of areas where improvements are required. These include more public disclosure of information on contracts, including negotiated terms for exploration and production, as well as the licensing process. There is also a need for more transparency in the assessment of contracts.

3.4 Heritage and Stabilisation Funds



There are five questions designed to assess the level of transparency and accountability in the management of the Heritage and Stabilisation Funds. The first question enquires whether the rules governing the Stabilisation and Heritage Funds (including information regarding receipts into the fund and disbursements out of the funds) are publicly available. The PRMA contains some information on the rules governing the funds. However, more detailed information is supposed to be provided by the IAC. Our score for this question was therefore 4 or 80%.

The second question asks whether the authority in charge of the funds (BoG) publishes information on its activities and the performance of the funds. According to sub-section 28 (2) of the PRMA, BoG is to publish semi-annual reports on the Ghana Heritage Fund and the Stabilisation Fund in two state-owned national dailies and on the bank's website. We gave this question a score of zero because BoG is yet to publish any reports on the two funds.

The third question enquires whether the funds are used for the intended purposes as proposed by the IAC and approved by Parliament. According to Sub-section 30 (1) of the PRMA, the IAC is required to propose investment policies for the management of the funds. Therefore, the legislation provides a check on what the funds are used for. However, we deemed this not to be significant at the time of this assessment and assigned a score of 3 (60%).

Question four asks whether the funds' financial reports are audited. Article 187 (2) of the 1992 Constitution and Article 11 (1) of the Audit Service Act 2000 (Act 584) indicate that any public account of Ghana must be audited and reported by the Auditor-General. In regard to the oil and gas sector, Section 44 of the PRMA requires the Internal Audit Department of BoG to audit the funds and also mandates the Governor to submit a quarterly report to the Minister of Finance.

Furthermore, sub-sections 45 and 46 of the PRMA mandate the Auditor-General to carry out an external audit, annual audit and special audit of the Petroleum Fund and submit his findings to Parliament. From the Act, provision has been made to ensure an extensive process of auditing. However, the Auditor-General is yet to submit the audited reports on the Stabilisation and Heritage funds for 2011 to Parliament. On the basis of the extensive provisions for auditing of the funds, we assigned this question the maximum score of 5 (100%).

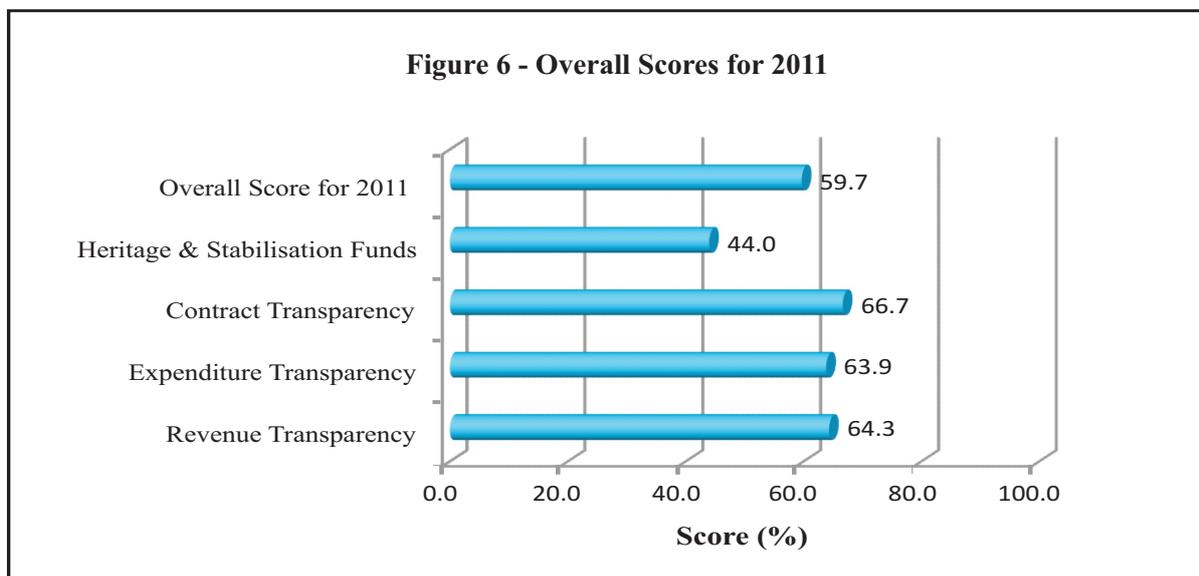
The final question asks whether the audited reports of the Auditor-General are published. Sub-section 46(4) of the PRMA requires the report on the Petroleum Funds to be published by the Auditor-General within 30 days after submission to Parliament. As indicated above, the Auditor-General has not yet presented the audited reports on Petroleum Funds for 2011 to Parliament and as such they have not been

published. We therefore gave this question a score of zero.

The average index for the Heritage and Stabilisation Funds therefore comes to 2.2 out of a possible 5, resulting in an average score of 44%. This is the lowest score of the four components of the index, pointing to the fact that a lot needs to be done in terms of increasing transparency in the reporting of the management of the funds. Under sub-section 49(3) of the PRMA, with the approval of Parliament, the Minister can withhold information on the Ghana Stabilisation and Heritage Funds. This does not promote full disclosure of information.

The final step in the compilation of the P-TRAC Index was to combine the four key components of the Index to produce an overall score to measure transparency and accountability in the management of Ghana's petroleum revenues. These results are presented in Figure 6 below.

Using a benchmark of 60% to assess overall performance, it can be seen that there was satisfactory performance in Revenue Transparency, Expenditure Transparency and Contract Transparency, while performance was below par on transparency in the management of the Heritage and Stabilisation Funds. The overall 2011 score for transparency in the oil and gas industry came to 59.7%.



4 Conclusions and Recommendations

The P-TRAC Index report for 2011 is the first attempt to produce a comprehensive assessment of the degree of transparency and accountability in the management of Ghana's nascent oil and gas industry, with the view to suggesting improvements. A list of recommendation arising from this study, can be found at the start of this report.

On Revenue Transparency, we found that progress has been made in putting in place legislation that would create an institutional environment conducive to fostering transparency and accountability in the oil and gas industry. Reports were produced on government revenues generated from the petroleum resources and these reports were fairly comprehensive. However, we found that there is need for more frequent reporting and for these reports to be more publicly available.

Turning to Expenditure Transparency, we found that this is an area where the most progress has been made. In particular, significant effort was made through the Budget Statement to provide details on projects that received funding through the ABFA in 2011. Most of these projects were in the priority areas and would have significant developmental impacts.

We found that although the Minister of Finance has fulfilled his constitutional obligations by

providing information on oil and gas expenditures, it would be desirable for him to provide more frequent and comprehensive reports on these expenditures.

Contract Transparency produced a lower percentage score than Revenue Transparency and Expenditure Transparency. In this area, there was lack of transparency in the form of full public disclosure of information on contracts and the assessment of contracts.

The Heritage and Stabilisation Funds received the lowest score because under the law, the responsible agencies (notably BoG) had a deadline to make reports available and these were not available at the time of this analysis.

The overall 2011 score for transparency in the oil and gas industry came to 59.7%. Our conclusion is that some progress has been made in the past year to enhance transparency in the management of Ghana's oil and gas resources. However, our study reveals a number of areas where further improvements can be made to raise the level of transparency and accountability.

Going forward, this result should be viewed as a reference point from which we can judge progress being made to improve the management of the oil and gas resources.

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