



Ghana's Big Test: Oil's Challenge to Democratic Development

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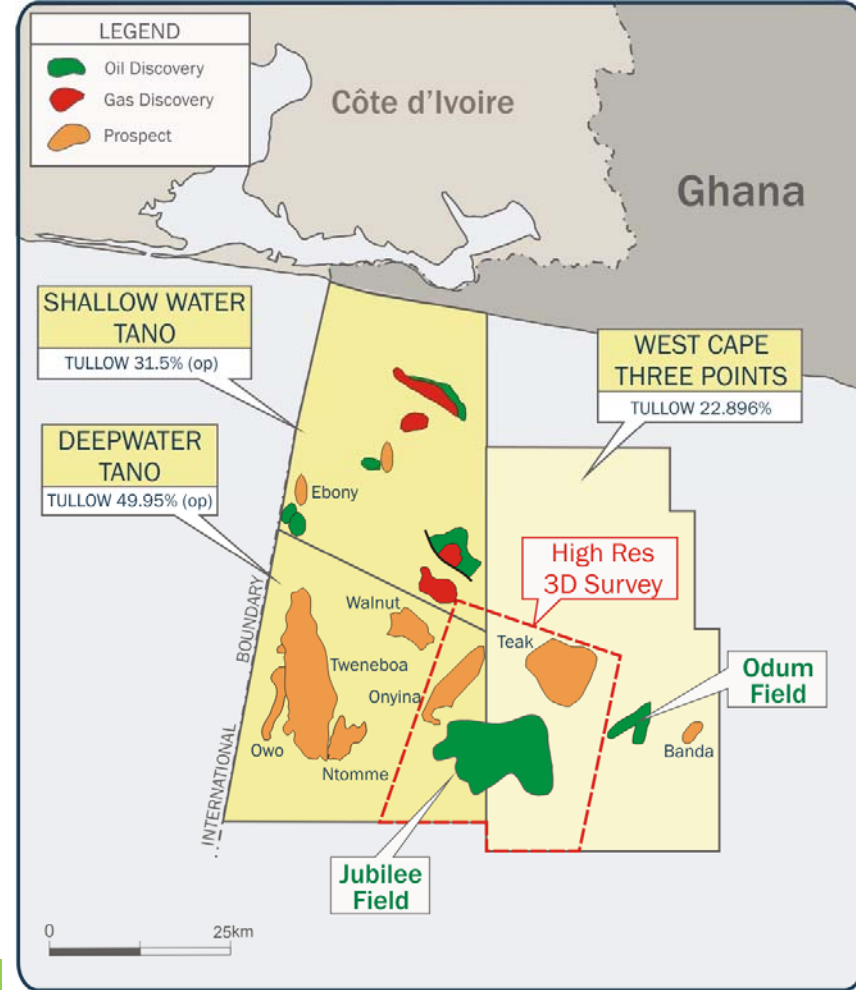


“Black Gold” – Promise and Peril

- Ghana widely perceived by donors as a “model country,” on track to exceed 2015 MDG target of halving poverty
- Oil could boost or undermine that progress depending on how the oil boom is managed
- “Resource curse” – oil booms linked to increased conflict, corruption, authoritarianism, loss of control of public spending, exposure to price shocks and neglect of other sectors of the economy
- With “Jubilee” find, 120,000 bpd predicted by 2011
- IMF predicts government revenues from oil and gas could reach US\$20 billion over the production period of 2012–30 for the Jubilee field alone

Jubilee Discovery

- 63 kilometers (39 miles) from the coast and 132 kilometers (83 miles) southwest of Takoradi
- Discovery estimated at between 600 million and 1.8 billion barrels
- Additional 800 billion cubic feet of gas in the field
- Recent positive results of Hyedua 2 well (possible 1 billion barrels)



Detail of Jubilee field off the coast of western Ghana.

Map: Tullow Oil

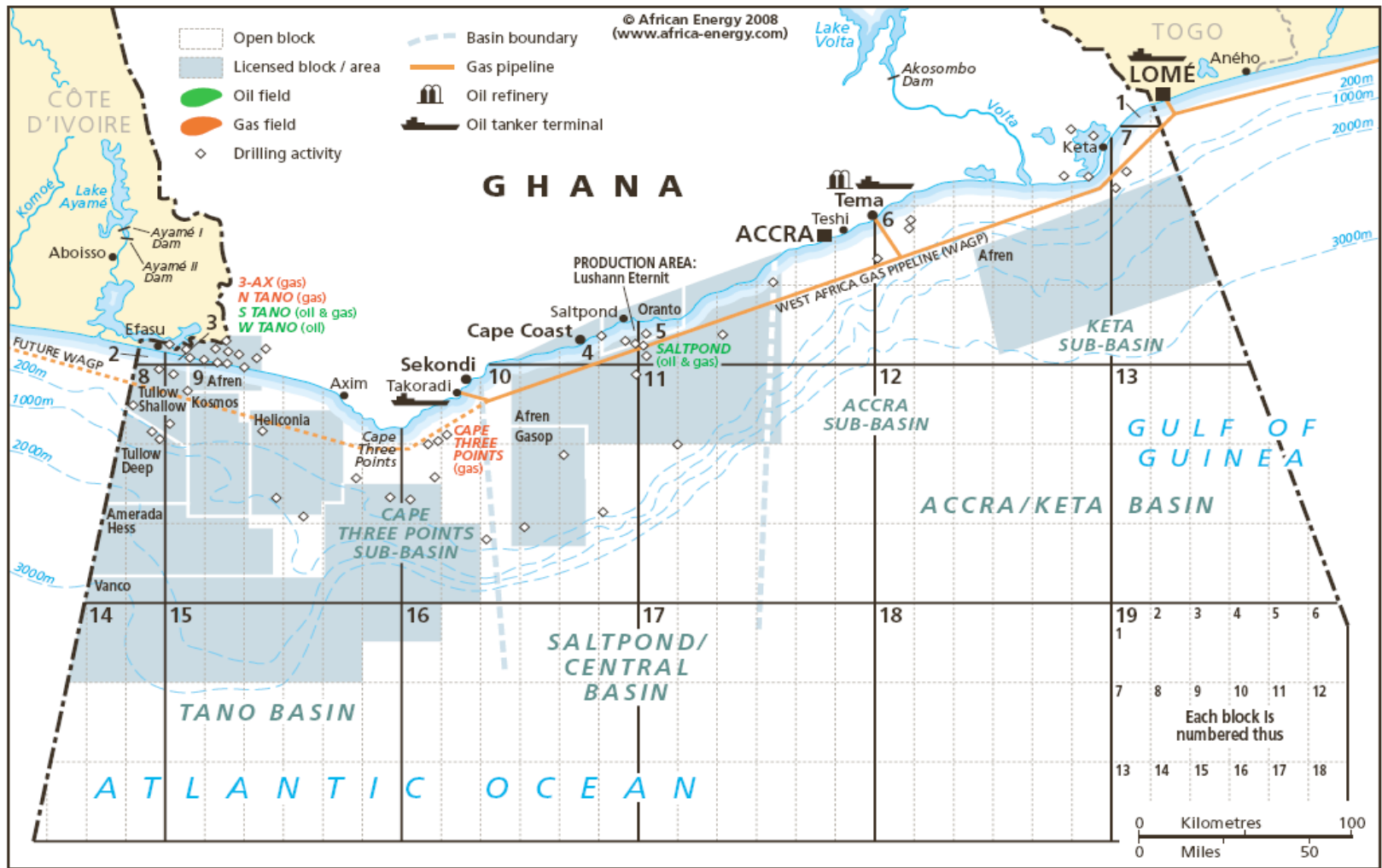
West Cape Three Points:

Kosmos 30.875 % (operator);
Anadarko 30.875%; Tullow
22.896%; GNPC 10% (carried);
E.O. Group 3.5%; Sabre Oil and
Gas Ltd. 1.854%

Deep Water Tano: Tullow

49.95% (operator);
Kosmos 18%; Anadarko
18%; GNPC 10%
(carried); Sabre 4.05%

Ghana: Hydrocarbons exploration



Map courtesy African Energy

Developing the Jubilee Field

- Drilling rigs under contract and FPSO *Ohdoh* contract signed
- Kosmos, Tullow, Anadarko, and GNPC unitization agreement / field dev't plan second draft not yet approved
- Unitization agreement and field development plan not yet public
- Review of field development plan and GNPC – possible conflict of interest – approval this week?
- Fast-tracked field development – production 3 yrs from discovery



Photo: Kosmos Energy

Financing the Jubilee Field

- Estimates for phase one of the project = \$3.1 billion to +\$4B
- According to GNPC, total field costs could reach US\$6.5 million
- Kosmos has secured at least \$800 million from Warburg Pincus L.L.C. and Blackstone Capital Partners, two large private equity firms
- Tullow will be raising \$565 million for issuing shares and is talking with 18 banks to raise \$2 billion
- IFC (World Bank Group) approved financing for Kosmos (\$100 million) and Tullow (\$115 million) on Feb. 19

Post-Jubilee Rush for Oil

- At least 41 applications to GNPC since mid-2007 (4 per year prior to Mahogany well discovery)
- “Open-door” approach to offshore licensing / negotiated deals – little transparency in the process
- Parliament has right to approve agreements and contracts for natural resource licenses though Constitution, but unclear how approval works in practice
- GNPC participant in process through carried interest, and involved in review and due diligence process
- Companies that have expressed interest in available acreage include: Lukoil (Russia), Sahara Energy Fields Ltd. (Nigeria), Young Energy Prize (Luxembourg), among others

Contract Information and Fiscal Terms

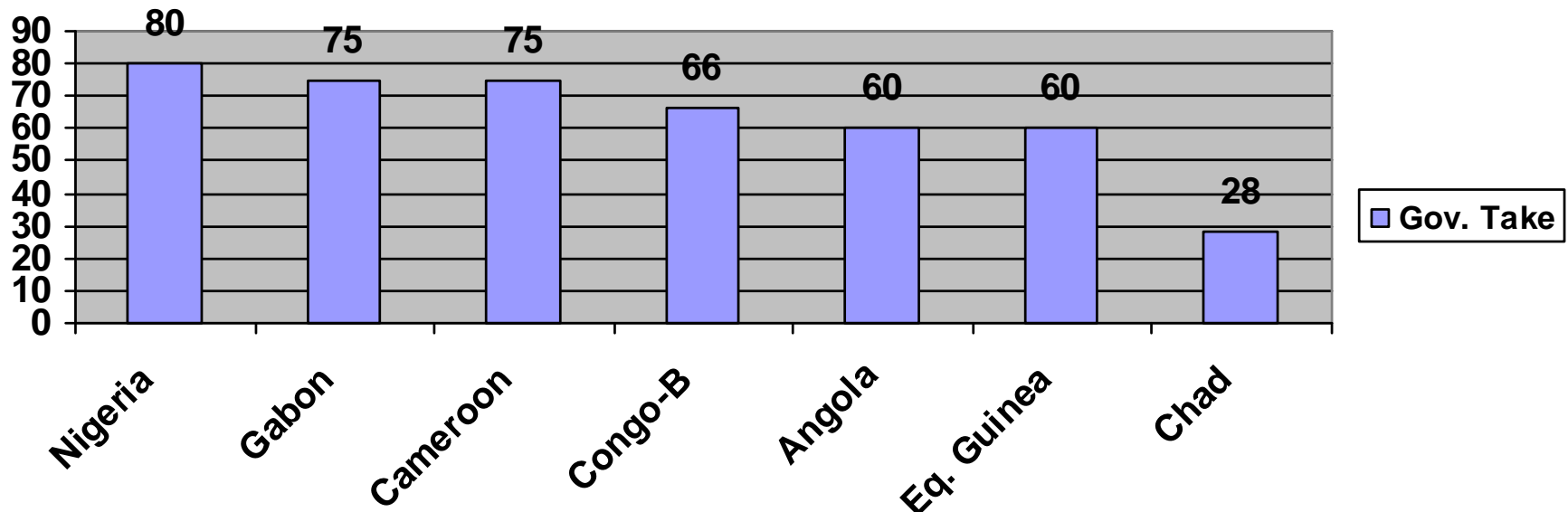
- Some information available, but contracts not disclosed
- Pres. Mills pledge on March 1 to disclose all agreements
- Royalty payments between 4 and 12%
- GNPC carried interest (percentage of net production minus production costs) – 10% for Jubilee field
- GNPC paid or additional interest option (variable rate) – 3.75% for Jubilee field
 - Pres. Mills – State of Nation – directed GNPC to exercise option valued at \$161 million
- Petroleum income tax by law is 50%, but negotiable – 35% for Jubilee field

Government Take

- Ghana's projected take between 38-51%
- Could be higher with additional oil entitlements triggered by exceeding profitability projections (internal rate of return – IRR)
- IRR for Kosmos is 25% and Tullow is 19%; net profits in excess of targeted IRRs taxed at 5% for Kosmos and 7.5% for Tullow

Government Take Comparison - Sub-Saharan Africa

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



Ghana's Preparation for Oil

- National Forum on Oil & Gas Development (Feb. 2008)
- Six technical committees established in 2008
 - Legal framework
 - Fiscal regime and fund types
 - Natural gas utilization and infrastructure development
 - Environmental management and community issues
 - Local content
 - Security issues
- Work unfinished and no draft master plan for the sector
- Limited opportunities for public input
- Draft national oil and gas policy paper (June 2008) contains important, common-sense policy principles, but little detail
- Draft petroleum regulatory authority bill (October 2008)

Petroleum Regulatory Authority Bill

- **New draft with Cabinet**
- Create an “independent” regulatory authority—the Ghana Petroleum Regulatory Authority (GPRA)
- Define GNPC as a strictly commercial entity, although the GNPC would still hold equity on behalf of the state
- Establish regulations for the upstream and midstream sectors
- Partially define the fiscal regime
- Establish disclosure and confidentiality rules for the sector

Positive Features of Bill

- **Recognition of need to split functions**
- Public announcement of petroleum blocks
- No gas flaring
- EPA permitting
- Some disclosure required, but not of petroleum agreements
- Consent and compensation
- Employment and local content

Causes for Concern in Bill

- **Presidential powers and the GPRA**
- **Funding and independence of GPRA**
- Unclear jurisdiction and overlapping functions
- Information sharing with other agencies
- Management and governance of GNPC
- Limited role for Parliament
 - Petroleum Agreements
 - GPRA board
- **Discretionary fiscal regime**
- No open, competitive bidding round mandated
- **Extensive secrecy provisions**
- **Lack of transparency**
- No outer limit for commencement

Challenges to Managing the Money



- Weaknesses in government revenue collection identified through experiences in mining sector
 - WB 2008 – gov't lacks capacity to collect revenues and audit payments from gold mining companies
- Need for improved budget transparency (49% score in 2008 Open Budget Index)
- Absorptive capacity issues and low quality public spending, e.g. in health, education
- Need to strengthen procurement and competitive bidding, as well as auditing and oversight mechanisms
- Ghana may need oil fund, and no fund yet established – discussion of stabilization and “heritage” fund

EI Transparency

- Ghana produced EITI mining report in 2007 for mining payments from 2004, became EITI candidate country September 2007
- Civil society frustrated with EITI process
- Government reluctance to include petroleum sector in EITI process (though 2009 work plan includes oil)
- Ghana yet to approve freedom of information bill
- IFC financing requires payment disclosure by Kosmos and Tullow



Donor Community

- Norway closest to the government on oil issues
 - Capacity building
 - Exchange of information and technical expertise
- GTZ support to revenue collection reform
- WB, Britain, France, Holland, and the EU have active program on natural resources and environmental governance (\$31 million in 2008–9); primarily mining but likely spillover
- Need to increase information flow and coordination among donors
- Potential donor conflicts of interest

Environmental Issues

- Environmental laws need review and expansion into petroleum sector
- Significant support to EPA needed (lacks experience in petroleum sector)
- Government has faced challenges regulating gold-mining and industry development has outpaced regulation
- IFC approved \$215 million in financing *before completion of production phase ESIA*



Photo: Marloes Kraan

Social Issues

- Increased information and consultation needed to address concerns and expectations of coastal/fishing communities
- High local expectations of job creation unlikely to be met – much activity offshore
 - Tullow estimates only 180–200 direct employees and 600–800 personnel working for contractors



Photo: Marloes Kraan

Recommendations



Photo: Marloes Kraan

“While these recommendations are not a simple recipe for overcoming the threats posed by the oil boom, it is difficult to see Ghana succeeding without them.”

Recommendations for Government Policy Development

- Develop policy principles, master plan, and regulations in sequence and as a package
- Incorporate robust public, civil society, and parliamentary participation



Recommendations for Government **Transparency**

- **Regular publication of all material oil and gas payments**
- **Disclose unitization agreement and field development plan for Jubilee field**
- **Disclose plans for taking paid interest**
- **Disclose all petroleum agreements and licenses**
- **Reject confidentiality clauses, except in cases of proprietary technological information**

Recommendations for Government Transparency (cont.)

- **Extend the Ghana EITI process to include oil and gas**
- **Transform Ghana's voluntary EITI commitments into binding laws**
- **Disclose audits of the GNPC, the future GPRA and any future oil funds.**
- **Reintroduce and pass a strong Freedom of Information Act**
- **Make all disclosed information free of charge and available on government Web sites**

GEITI

Ghana Extractive Industries Transparency Initiative

Recommendations for Government Licensing and Contracts

- **Enact moratorium on new exploration**
- **Prepare for open, competitive bidding round**
- Reject stabilization clauses except to cover fiscal terms
- Narrow discretionary space on fiscal terms
- Include Ministry of Finance and Economic Planning, attorney general, and other relevant agencies in agreement negotiations
- Ensure that Parliament maintains meaningful role in approving all agreements

Recommendations for Government **GNPC and GPRA**

- **Ensure separation of regulatory and commercial functions of GNPC**
- **Avoid conflicts of interest in the GPRA board**
- **Reduce GNPC and presidential influence in GPRA**
- **Independent funding for GPRA**
- **Reduce confidentiality provisions and increase transparency provisions in GPRA bill**



Photo: Ian Gary, Oxfam America

Recommendations for Government Revenue Collection, Budgets, and Expenditures

- **Establish a Petroleum Tax Unit**
- **Meet all six indicators of the Open Budget Index**
- Invest capacity-building resources so that the IRS can play its role
- Pass a Fiscal Responsibility Law
- Publish an explanation for the oil benchmark price used in future budgets with oil revenue projects

Recommendations for Government Oil Funds

- Adopt clear rules for moving money to and from fund
- Channel all oil revenues into a single fund
- Integrate funds into the national budget
- Have the fund independently audited on a regular basis
- Make the fund transparent
- Establish formalized civil society oversight
- Avoid conflicts of interest
- Prohibit oil-backed loans
- Insulate the fund and its management arrangements from executive influence by placing them under parliamentary oversight

Recommendations for Government

Social and Environmental Issues

- **Quickly establish inclusive process to manage conflicting uses of the sea**
- **Require that ESIA's be completed before commercial development of fields begin**
- All ESIA's should be made public and a strategic ESIA developed for Ghana's offshore oil acreage
- Ensure protection of critical environmental areas by establishing zones that are off limits to oil and gas development

Recommendations for Government

Consent and Compensation

- **Respect free, prior, and informed consent of communities before any licenses for onshore exploration are given**
- **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**
- **Strengthen and maintain the authority to approve petroleum agreements**
- Develop expertise and advisory staff in the appropriate committees
- Include an active oversight role in the GPRA bill
- Reintroduce and pass a strong Freedom of Information Act

For Donors

- **Promote full transparency and civil society participation in petroleum sector development decisions**
- **Actively support capacity building beyond government to include Parliament and civil society organizations**
- Encourage the Ghanaian government to extend the EITI to the oil and gas sector
- Coordinate and share information to avoid duplication



For Companies



- **Disclose all payments to the Ghanaian government and petroleum agreements/licenses**
- **Publicly endorse the EITI on a global level and participate in the Ghana EITI process**
- **Conduct participatory, inclusive, and transparent ESIA processes**
- Establish an inclusive dialogue process with coastal communities in the Western Region
- Conduct regular information sessions for civil society groups, journalists, parliamentarians, etc.
- Fully compensate individuals/communities for negative impacts or loss of livelihoods



Conclusion – Key Messages

- Challenges posed by Ghana's oil boom are broad, deep and complex and should not be underestimated
- Oil could undermine gains made in Ghana on democratic governance and development
- Speed is important, but “haste makes waste” –
 - Ghana must control the pace of petroleum sector development so that it does not outstrip capacity of government and society to build institutions, regulations and safeguards
 - Pacing can lead to better negotiated deals over time
 - Stabilization clauses in new contracts can lock in weak regulatory regime
- Sequencing, transparency and public participation are key to developing petroleum policy, master plan, laws and regulations
- Ghana can learn from the experience in its gold mining sector as well as global good practice on managing oil booms