

Special Issue

GHANA'S PETROLEUM INDUSTRY: THE PROSPECTS AND POTENTIAL IMPEDIMENTS TOWARDS GOOD GOVERNANCE STANDARDS

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THE LEGAL REGIME OF GHANA'S UPSTREAM PETROLEUM INDUSTRY AND THE ROLE OF GNPC AS PLAYER AND REGULATOR

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ABSTRACT

Oil (or 'black gold') has the capacity to make and unmake nations, ensure prosperity or cause conflict. December 2010 will be remembered as when Ghana joined the league of oil-producing countries. As promising a step as it is, the question on the minds of many is: Can Ghana successfully manage its petroleum industry? Can the legal and regulatory framework provide effective organization of the industry? The framework to organize the prospective industrial activities was put in place in the 1980s and given legal backing by two main statutes: Ghana National Petroleum Corporation (PNDC Law 64) and The Exploration and Production Law (PNDC Law 84). These were supplemented by the Petroleum Income Tax Law, PNDC Law 188 of 1987. As impressive as these steps were for an industry that was far from promising, a number of questions have arisen recently. Are the extant laws crafted in the early 1980s comprehensive and sustaining enough to guide the emerging petroleum industry? What ought to be the appropriate role of the national oil company? This paper examines the industry's evolution, the legal and regulatory regime that is in place, the role that the national oil company plays as a regulator of the industry and also as a player, and concludes that while separation of roles is inevitable, and indeed desirable, it need not be immediate. Rather there should be a clear defined policy of capacity building to enable separation of functions within a three-year time frame with clearly defined timelines for implementation.

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1. INTRODUCTION

Petroleum exploration in Ghana dates back to the 19th Century in the then Gold Coast. But it was not until the 1980s that Governments realized the potential for oil in the country and begun to put in place the framework to attempt to manage the prospective industrial activities. The framework was established and given legal backing by two main statutes: The foresight to have an agency in place to help manage and regulate the nascent industry led to the establishment of the Ghana National Petroleum Corporation Law (PNDC Law 64), whilst The Petroleum Exploration and Production Law (PNDC Law 84), provides the framework for the management of oil and gas exploration, development and production in Ghana. These were supplemented by the Petroleum Income Tax Law, PNDC Law 188 of 1987 and the Model Petroleum Agreement. From modest beginnings, Ghana found oil in commercial quantities in August 2007.¹ Since then there have been slow but steady new commercial finds in both oil and gas.² On the 15th of December 2010, Ghana pumped first oil and joined the league of oil producing nations.

The industry demands strong regulations, ideally a regulator, and clear and unambiguous laws to govern it. Industry best practice is that the industry regulator should also not be a commercial player (Thurber et. al., 2010). In the light of this, the questions being asked are: (a) How will Ghana successfully manage the industry within the existing legal regulatory framework established nearly two decades ago, and (b) What should the role of the national oil company –Ghana National Petroleum Corporation (GNPC) be in the scheme of things? This paper examines existing legislation, the dual role GNPC plays, and offers some suggestions for the way forward, drawing from industry best practices. Section 2 of the paper outlines the evolution of the industry in Ghana, the law that established the national oil company, its objects and its scope of operations under the law. Section 3 examines the scope of activities of the national oil company and draws comparisons with other oil companies around the world. Section 4 briefly looks at the role of the proposed Petroleum Commission and the implications of its establishment for GNPC. Conclusions and the way forward follow in Section 5.

2. EVOLUTION OF THE PETROLEUM INDUSTRY IN GHANA

Ghana has four sedimentary basins namely: The Cote d'Ivoire – Tano Basin, Central Saltpond Basin, Accra/Keta Basin, and Inland Voltaian Basin. According to the Ghana Geological Survey Bulletin No. 40,³ traces of onshore oil and gas seepages found by early explorers prompted exploration of oil and gas in the Onshore Tano Basin. Early wells were drilled without seismic data. Five wells were drilled between 1896 and 1903 with the first discovery in the Takinta concession.⁴ Societe Francaise de Petrole drilled six wells between 1909 and 1913. The African and Eastern Trade Company (UAC) drilled two wells in Onshore Tano between 1923 and 1925 and encountered gas and heavy oil. Gulf Oil Company acquired the Tano Basin and drilled four wells from 1956 to 1957.

Onshore exploration continued during the first Republic. Acting under the auspices of the Ghana-Soviet Friendship Pact, Soviet Romanian Geoscientists explored for oil and gas in the Accra-Keta and Voltaian basin. The Soviets encountered traces of oil in the Voltaian Basin in the Northern and Upper East regions. Exploration for hydrocarbons continued during both military and civilian regimes between the 1960s and 1980s.

In 1982, Geophysical Services Incorporated (GSI survey) entered into an agreement with the then Ministry of Fuel and Power to acquire a non-exclusive seismic survey offshore to accelerate the exploration and production of hydrocarbons. The data covered the area from the Eastern border of Ghana to Cape Three Points. The then Provisional National Defence Council (PNDC) decided to establish the institutional capacity, statutory, legal and fiscal framework that would accelerate capacity building, exploration and production efforts. To this end, PNDCL 64 established the GNPC. The Petroleum Exploration and Production Law (PNDCL 84) was also enacted. The Petroleum Income Tax Law (PNDCL 188) provided for a separate tax regime for petroleum operations. The three laws are synthesized into the Model Petroleum Agreement as the standard agreement that is used in negotiating all petroleum operations in Ghana.

2.1 History of GNPC

Established as a statutory body under the then Ministry of Fuel and Power, the Ghana National Petroleum Corporation was to provide the institutional framework to handle the country's petroleum activities. GNPC emanated from the Petroleum Department under the Ministry of Fuel and Power which carried out the procurement of crude oil and petroleum products. The Technical Directorate of the Ministry and the Geological Survey Department coordinated petroleum exploration and received reports on those operations. GNPC was established to support the Government's aim of ensuring a reliable supply of petroleum products and reducing Ghana's dependence on imported crude oil products by developing the country's petroleum resources. GNPC took over the functions of the Petroleum Department and was also made responsible for the importation of all petroleum products.

In the 1980s the Canadian Government acting through Petro Canada International Assistance Corporation funded GNPC activities. In addition to equipping and training personnel for GNPC's research laboratory, Petro Canada acquired extensive 2D seismic data in the offshore Tano/Cape Three Points basin. The Government of Japan through a bilateral cooperation agreement also acquired offshore 2D seismic data for GNPC in 1987. This data covered the area from the Eastern Border of Ghana to Cape Three Points and was an infill to the 1982/83 GSI speculative survey.

In 1989 GNPC funded the acquisition, processing and interpretation of 3D seismic data over the South Tano Field. Following interpretation of the 3D seismic data to determine the viability of gas to the Integrated Tano Fields Development Project (ITFDP) for power generation, GNPC drilled three wells and acquired a drillship, three rigs and other infrastructure to facilitate the rapid development of the Tano field. As part of the ITFDP,

GNPC purchased a power barge (The Osagyefo Barge) to utilise the gas from the Tano fields. The power barge and transmission lines were to be linked to the national grid.

During the fourth Republic the government decided to refocus GNPC to enable it facilitate research for commercial hydrocarbons in Ghana. To that end training programmes for staff involved secondment and attachment to International Petroleum Companies for training in related fields. GNPC was restructured, downsized and retooled to facilitate the work of the Operations Divisions and the technical and non-technical staff.⁵ The new dispensation required that GNPC becomes more investor-friendly in order to facilitate exploration work. A campaign to attract investors at international oil fora was intensified. International Oil Companies (IOCs) such as Hess Corporation, Tullow Energy, Norsk Hydro Oil and Gas and Kosmos Energy began to take note of Ghana's hydrocarbon potential as an investor destination.

An analysis of the acreage positions of the IOCs and their respective approved work programmes reveal a gradual shift of focus from shallow water areas to deepwater. The increased spate of activity in offshore deepwater areas was occasioned by deepwater discoveries in the Tano basin from wells drilled between 1999 and 2003. Though this gradual shift of focus to deepwater began less than a decade ago, there is enough evidence to suggest that this area will play a vital role in petroleum exploration in Ghana – a fact quickly borne out by the discovery of oil in commercial quantities in deepwater Tano Basin in 2007.

2.2 The Role of GNPC in Upstream Oil and Gas Production

What role was envisaged in the extant laws for GNPC? And what does the Constitution say about the management of natural resources in general and hydrocarbons in particular?

The Constitution

The 1992 Constitution of Ghana protects all natural resources of Ghana. It stipulates that:

“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 however described, for the exploration of any mineral, water or other natural resources of Ghana, made or entered into after the coming into force of this Constitution shall be subject to ratification by Parliament”⁶

This implies that any Petroleum Agreement (PA) must be ratified by Parliament or else it is void. The Constitution makes the position clear and transparent. The agreement goes to Cabinet for approval and then to Parliament for ratification thereby offering the investor a stable and transparent arrangement.

The Ghana National Petroleum Corporation Law (PNDCL64)

This law established GNPC as a body corporate that has perpetual succession and a common

seal. The law allows the Corporation to acquire and hold property and where there is a hindrance to the acquisition the property may be acquired under the law.⁷ The five main objects of the Corporation are to:

- a. Promote the exploration and planned development of petroleum resources.
- b. Ensure that Ghana obtains the greatest possible benefits from the development of its petroleum resources.
- c. Ensure training and development of national capabilities in all aspects of petroleum exploration.
- d. Ensure that petroleum operations are conducted in a manner that prevents adverse effects on the environment, resources and the people of Ghana.
- e. Obtain the effective transfer to Ghana of appropriate technology relating to Petroleum operations.⁸

It is clear from the foregoing that the powers of GNPC range from the regulation of petroleum operations in Ghana to ensuring capacity building and training in the petroleum sector. These objects tend to emphasise the regulatory role of GNPC, but other activities flow from these objects and these can be found in Section 2(3) of the Act. These provisions state that the Corporation “may” (not shall);

“Advise the Minister in matters relating to Petroleum Operations, engage in petroleum operations either alone or in association with others, enter into petroleum exploration and production agreements and other petroleum contracts, providing for assistance, participation or cooperation of contracts in connection with petroleum operations.”

The Corporation can also, either alone or in association with others, buy, sell, trade, store, exchange, import, or export petroleum and acquire or operate any installation, facilities or means of transportation. The law also allows GNPC to engage in research and development programme related to petroleum and engage in other activities either alone or in partnership with others as may be necessary for the carrying out of petroleum operations. It is clear that GNPC is also allowed under its laws to be a player in the industry. The law allows it not only to be an upstream operator, but a player in the downstream operations of the petroleum industry as well.

The law goes further, in Section (3), to grant GNPC other powers. These include:

- a. The formation of subsidiaries and affiliate companies, branches or agencies outside Ghana to carry out activities the Corporation is authorised to undertake.
- b. Enter into contracts and agreements with individuals or firms in or outside Ghana, and with the approval of the Minister, purchase or own shares in other companies engaged in activities related to the objects of the Corporation, or sell or transfer such shares.
- c. To manage factories, plants and installations and facilities as are necessary for engagement, development, production and disposal of petroleum.

Under these objects GNPC partners investors in petroleum exploration and production.

It enters into production sharing agreements with investors or engages in petroleum operations alone. This is clearly portrayed in its relationship with Tullow, Kosmos and Anadarko in the Jubilee Fields. Within its objectives, it is also mandated to; “ensure that petroleum operations are conducted in such a manner as to prevent the adverse effects on the resources and good people of Ghana”.⁹ This object clearly defines GNPC’s role as a regulator, and in the same breath the law allows the Corporation to “engage in petroleum operations either alone or in association with others”.¹⁰ The question is with the discovery of oil in commercial quantities can GNPC remain both a player in and a regulator of the industry? We examine this in further detail.

2.3 *Significance of the Petroleum Exploration and Production Law (PNDCL84) to the Role of GNPC*

This law provides the framework for the management of Ghana’s petroleum industry.¹¹ The law also spells out the contractual relationship between the State, GNPC and a prospective investor in upstream petroleum operations. The law states the terms and conditions of every petroleum agreement (PA) negotiated and executed in Ghana and spells out the rights and objectives of parties to the agreement. Section 2(1) of the law states that no person other than the Corporation shall “engage in the exploration, development or production of petroleum except in accordance with a petroleum agreement entered into between that person and the Republic and the Corporation”.

Hence the law makes the Corporation a party to every petroleum agreement that the Republic of Ghana enters into with any investor. The Model Petroleum Agreement (MPA) which is negotiated only in respect of specific terms ensures that all investors have almost the same broad terms in their contracts, but with contract-by-contract variations.

PNDCL 84 gives GNPC the right to undertake exploration, development and production of petroleum in all blocks that are declared by the Minister as open for petroleum operations. The law also provides for the ownership of gas in section 16(2) which states “that all natural gas produced other than in association with crude oil is the property of the Corporation except where the investor and the Corporation have agreed on different terms in a petroleum agreement”.

The latter provisions emphasise the Corporation’s role as a player in the industry. It must also be noted that the law refers to a Contractor and the Corporation when it refers to the payment of royalties from production of petroleum,¹² for the payment of compensation¹³ or the notification and approval of a petroleum discovery.¹⁴ In contradiction and contrast to its role as a player, PNDCL 84 under the part that spells out the obligations of contracts and sub-contracts states: “All data and information obtained by a contractor as a result of Petroleum operations shall be the property of the Corporation”.¹⁵

This clearly puts GNPC back into the role of a regulator. Section 15 brings to the fore one of the many paradoxes the law draws up with respect to the role of GNPC in the industry. If the Corporation is a player in the industry but owns any data that its competitor investors

produce, there may not be a level playing field in the industry in Ghana. The law also enjoins GNPC to appoint auditors or a person authorised by the Corporation to test, inspect, and audit the works, equipment, operations, etc. relating to petroleum operations performed by a contractor or sub-contractor under the law.¹⁶ Here again GNPC slips into the role of regulator.

3. NATIONAL OIL COMPANIES

In the preceding sections, we have looked at the law and the objects of the Corporation, bringing to the fore its dual role of regulating the industry as well as the dispensation the law gives it to be a player in the industry. But how does the current role of GNPC compare to those of other National Oil Companies around the world?

As stated earlier both PNDC Laws 64 and 84 give the Corporation the mandate to engage in exploration, production and development and disposal of petroleum resources. The Corporation can enter into contracts with investors in the industry, purchase shares in these companies, purchase or lease, or establish and manage factories, plants and installations necessary for petroleum activities¹⁷ and export crude oil and natural gas. The Corporation is also enjoined to conduct its affairs along sound commercial lines and its revenues are to produce a reasonable rate of return on its assets and make payment into the consolidated fund.¹⁸ The Corporation can also open foreign exchange accounts where all monies paid to it are deposited.¹⁹

PNDCL 84 also deals with the Corporation as it does with contractors and sub-contractors who are operating in the Ghanaian petroleum industry. The law requires the Corporation to pay compensation to the title holder for land it enters upon for petroleum operations. It is also required under the law to notify the Minister of a petroleum discovery and also submit development plans and an annual and long term production programme to the Minister, in respect of any field developed directly by the Corporation.²⁰ Royalty payments and taxes are also expected from the Corporation when it gets into production. The law clearly anticipates a situation where GNPC acts as the National Oil Company.

Presently industry players are managed by Petroleum Agreements to which GNPC is a party. The PA enables GNPC to participate in petroleum operations and currently GNPC has a shareholding in all the blocks covered by a petroleum agreement. On behalf of the State, GNPC holds a 10% initial carried interest and the agreement allows the State to increase its equity holding to a maximum of 13.5%. Presently the Corporation holds 10% in the Deepwater Tano contract group, 10% in the West Cape Three Points contract group giving it an aggregate of 10% in the Jubilee unit. However, the State does have an option to increase its stake in the Deepwater Tano to 15% and to 12.5% in the West Cape Three Points contract group.²¹ Its interest in other blocks vary from 7% - 15%. GNPC is also involved in the development of the gas infrastructure for the production and utilisation

of natural gas. It also supervises the production of petroleum products by the Tema Oil Refinery (TOR). GNPC has also taken advantage of the sections in both PNDCL 64 and 84 that allow it to operate on commercial lines. But how do these operations compare with those of other IOCs?

An NOC is an oil company fully, or in the majority, owned by a national government. According to the United States Energy Information Administration, NOCs accounted for 52% of global oil production and controlled 88% of proven reserves.²² Such Companies include Statoil of Norway, the Abu Dhabi National Oil Company, Sonangol of Angola and Petrobras of Brazil. A short profile of each and an analysis of their activities in comparison to GNPC's will help us determine whether GNPC fits the cap of a National Oil Company.

Statoil

Statoil is responsible for the commercial interest of the petroleum industry in Norway. Statoil was the result of the merger of Statoil Hydro and Norsk Hydro in 2007 and became the biggest offshore Oil and Gas Company in the world.²³ It is a fully integrated production company with production operations in thirteen countries and retail operations in eight countries. Fortune magazine has ranked it the 13th largest operation on the Norwegian Continental Shelf with 60% of total production. The company also has trading offices for crude oil, refined petroleum products and natural gas. One of the reasons behind the setting up of Statoil was to “entrust the task of state participation in the company that was fully owned by the state. In doing so an institutional distance would be created between the Ministry of Industry which had the constitutional responsibility of the starting and the actual daily administration of the State's commercial functions.”²⁴

Abu Dhabi National Oil Company (ADNOC)

This is the state owned oil company of the United Arab Emirates (UAE) and is considered as the world's fourth largest oil company. It was established in 1971 to operate in all areas of oil and gas and has 14 subsidiary companies both upstream and downstream including transportation, shipping, marketing and distribution. The Petroleum Council acts as the board of directors for ADNOC. It is chaired by HH Sheik Kalifa Bin Zayeb Al-Nahayan, President of the UAE and ruler of Abu Dhabi. This council formulates and oversees the petroleum production of Abu Dhabi. In the past few years there has been considerable expansion and development of gas fields to meet the increased demand for gas in the industry.²⁵ The difference between ADNOC and Statoil is that Statoil has expanded beyond the borders of Norway to invest in exploration of petroleum fields. Norway presently has shareholding with non-Norwegian petroleum companies in other parts of the world. ADNOC, however, appears to have expanded internally owning and exploiting most of the resources of Abu Dhabi.

Petrobras

Petrobras is Latin America's largest Company. In 2008 its sales capped \$118.3 billion.²⁶ The Brazilian Government owes 55.7% of Petrobras.²⁷ It was created in 1953 and is a significant oil producer with an output of more than 2 million barrels of oil equivalent a day.

The company owns oil tankers and is a world leader in development of advanced technology from deepwater to ultra deepwater oil production. It controls oil and energy assets in 18 countries in Africa, North America, South America, Europe and Asia. These holdings as well as its properties in Brazil give it assets to the tune of \$135.5 billion. After 40 years of production, refining, and transportation of Brazil's oil, Petrobras began to compete with other companies in 1997 and Brazil's government created the Agencia Nacional do Petroleo (APN) which became responsible for the regulation and supervision of the petroleum sector.²⁸

Sonangol

Sonangol is the only concessionary for petroleum underground and on the continental shelf of Angola. It was created in 1976 through the nationalisation of ANGOL. The company is involved in prospecting, development, sales, production, transportation and refining of hydro-carbons and their derivatives and these activities are performed autonomously or with other companies such as Braspetro, Daewoo, Naftagas, Petrogel, Segaoil, Shell, Statoil and Svenska, among others. Sonangol is a Corporation with several subsidiaries. It comprises a group of companies that includes Sonangol Holdings. It also has subsidiaries and joint ventures. All its companies are independent business units with their own management structures but the management of the subsidiaries report directly to the Administration Council which determine corporate strategy.²⁹

Sonangol is responsible for the negotiation of both offshore and onshore oil concessions and post contract supervision of the concession. Its subsidiaries are involved in the marketing and trading of oil and gas, the products of oil derivatives such as grease and lubricants, air transport to the oil industry, transportation of crude oil and its derivatives and telecommunication services for the Sonangol group. China Sonangol based in Hong Kong is involved in the exploration and production of gas.

All these companies are state-owned or have a majority state share. The common thread that runs through all of them can be summarised as follows. First, they are not regulators of the industry. Apart from Sonangol that is responsible for negotiating the concessions for petroleum, none of the companies described above regulate the petroleum industry in their respective countries. But GNPC does so ostensibly on behalf of the Ministry of Energy. It is responsible for the physical regulation and extant laws enable it to do so. Second, all the companies are into full scale commercial activities and have subsidiaries that have branched off into transportation and production of petroleum, among others. They have either partnership in oil concessions worldwide or they own these concessions. They also appear to be regulated just as international oil companies are regulated by independent regulatory authorities of their respective countries.

These features make their operations very different from that of GNPC. While existing laws allow GNPC to engage in most of these petroleum activities noted above, GNPC is presently more of a regulator than a commercial player in the industry. Yes, it may have a small share in the blocks it gives out to IOCs but it must be noted that the interest is

mainly a carried interest which hardly gives one the clout of a real player in the market. The real decision-making clout rests with the IOC. To become an NOC, GNPC will have to shed its regulatory role and relinquish that to a Regulatory Body. It will have to begin to commercialise its activities and submit to the regulations of its activities by another entity. By shedding its regulatory role it will have more space to develop itself into a viable NOC. This brings us to a brief analysis of GNPC and the suggested Petroleum Commission.

4. THE PETROLEUM COMMISSION VIS-A-VIS GNPC

Parliament in 2010 suggested that a Petroleum Commission be put in place to oversee, manage and regulate the petroleum industry as specified in Article 269 of the Constitution. This would be consistent with best industry practice in other countries. It is submitted that the suggestion that the Regulator should be set up as a Commission rather than as an Authority may be premised on the concept that once it is a Commission it will be independent and insulated from government interference and manipulation. However, to give it that independence and immunity, it must be a Commission that is specified in the Constitution very much like the Lands Commission. This would ensure some level of autonomy and independence.

GNPC presently, under its act, performs the physical regulation of the industry. It has the personnel and the expertise to do this and its law enjoins it to play this regulatory role. The Petroleum Commission that will be responsible for the regulation of the Upstream Petroleum Industry will also be playing the same regulatory role. This means that there will be two agencies doing the same thing. The duplication of roles will make the industry uncertain and costly. This means that with the coming into force of the Petroleum Commission Bill, amendments will have to be made to both PNDCL 64 and 84 so that the regulatory functions of GNPC are taken away and vested in the Petroleum Commission for upstream regulation. This would mean that with the coming into force of the Commission, GNPC would no longer be responsible for regulation and it would concentrate on its role as a National Oil Company.

The question is, in the short term would this be in the national interest? As stated above GNPC has the expertise and personnel to regulate the industry. The petroleum industry is complex and the same expertise needed to run a viable NOC is also needed in an efficient regulatory body. Ghana needs to run an efficient regulatory body to benefit from the industry. The industry itself prefers to have an independent regulator so that all parties understand what the rules of the game are and fortunately these rules are standard worldwide. Do we have enough expertise and personnel to split between the two? It is submitted that GNPC should increase and train its workforce so that some can be hived off to form a core team for the Commission.

Second, the absence of qualified staff to efficiently and effectively monitor, coupled with inadequate wages in the face of huge oil revenues may corrupt officials who are tasked to do the monitoring. This may also result in an inadequate flow of expected revenue from

royalties and taxes. It has happened in the gold industry and can be replicated in the petroleum industry especially if Ghana does not have a National Oil Company. GNPC therefore should be allowed to play that role. Regulation of the industry must go to an independent institution and policy for the industry should be formulated by the Minister. Best practice dictates that the roles should be separated to ensure transparency and fair play.³⁰

5. CONCLUSION

GNPC presently is more of a regulator than it is a player in the industry. Parliament has suggested that there should be an independent regulator in conformity with best practices in the industry. GNPC by its law is enjoined to go commercial and get into the petroleum business. In fact it is suggested that it is the only way that Ghana can get the most out of its petroleum resources. This implies that there must be a separation.

However, it is suggested that the separation should not be made right away. All the relevant expertise is concentrated in GNPC and, as desirable as it is, immediate separation will lead to understaffing of both institutions to the detriment of both. Rather, it is suggested that there should be a rigorous policy of capacity building and training. The universities should begin to formulate curricula that take cognisance of the industry and its needs. Funds should be available for external training for personnel within the public sector to quickly build capacity to enable the separation to be done within a minimum time frame and the time frame should be specific and defined. To get this done the Petroleum Commission Bill may be passed but its operation can be delayed but with clear a timetable to enable capacity to be built to populate it. There is a precedent in the passing of the U.K. Freedom of Information Act. The Act was passed but it came into operation 5 years after the passage of the Act.

There should be a committed plan with a defined timeline to get Ghana to quickly build expertise in the industry to enable it follow best practice procedures that facilitate growth and transparency in the industry. This will also promote investor confidence and help Ghana build her own NOC to compete in a fair and properly regulated environment. The role of GNPC eventually should be that of a proper national oil company. It cannot continue to be a regulator and a player in the industry indefinitely.

ENDNOTES

¹Pronouncement by Tullow of oil in commercial quantities in its Mahogany 1, Hyedua fields.

²Djata and Owo discoveries in the West Tano Basin by Tullow.

³Moshen H. Khan. Most of the data on this has been collated from the GNPC Data Centre and interview of GNPC officials.

⁴Information derived from GNPC data centre.

⁵Culled from interview with GNPC officials.

⁶Article 268(1) of 1996 Constitution of Ghana

⁷PNDCL 64 of 1984, section 1-4, State Property and Contract Act 1960, CA60 and State Lands Act 1962, Act 125

⁸Section 2 of the Act PNDCL 64.

⁹PNDCL 64 section 3(3).

¹⁰Section 3(2) of PNDCL 64.

¹¹At the date of this article the new law that was laid before Parliament has not been passed and therefore the law regulating the industry is still PNDCL 84

¹²Section 20(2) and (3)

¹³Section 7(1)

¹⁴Section 9(1).

¹⁵Section 23(2) of PNDCL 84.

¹⁶Section 76 PNDCL 84.

¹⁷Section 3(c),(e),(f)(g)(i) Of PNDCL 64

¹⁸Section 4 of PNDCL 64.

¹⁹Section 19 of PNDCL 64.

²⁰Section 9 And 10 Of PNDCL 84

²¹Exhibit A to the Unitisation and unit operating agreement, Exhibit A being the group interest, tract participation and unit interest documents.

²²Energy Information Administration 2009

²³Culled From Ocean Resources www.Oceanresources.Com/News

²⁴Cited From the book Managing Petroleum Resources The Norwegian Mode; In A Broad Perspective Farouk Al-Kasim

²⁵www.adnoc.ue/

²⁶Latin Business Chronicle (www.latinbusinesschronicle.com)

²⁷Culled from Petrobras investor relations website. www.petrobras.com

²⁸supra

²⁹www.sonangol.co.ac

³⁰See section 3 PNDCL 84.

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The Institute of Economic Affairs (IEA) Ghana was founded in October 1989 as an independent public policy institute dedicated to the establishment and strengthening of a market economy and a democratic, free and open society. It considers improvements in the legal, social and political institutions as necessary conditions for sustained economic growth and human development.



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