

Court of Appeals

Board of Auditors

**Process no.
1/2013/
AUDIT-S/CC**

**Audit Report
no. 2/2014**



Tribunal de Recurso
Câmara de Contas

Proc. n.º
1/2013/AUDIT-S/CC

**RELATÓRIO DE
AUDITORIA N.º 2/2014**



AUDITORIA À AUTORIDADE NACIONAL DO PETRÓLEO (ANP)
- ANOS DE 2010 A 2012

Audit of the National Petroleum Authority (ANP) for 2010-2012

Rough unofficial translation from Portuguese by La'ó Hamutuk.

[red text in square brackets added by La'ó Hamutuk.]

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ACRONYM NAME

ANP	National Petroleum Authority
ANZ	Australia and New Zealand Banking Group Limited
Art	Article
Cf.	Conforming
DL	Decree-Law
HSE	Health, Safety and Environment
IATA	International Air Transport Association
INTOSAI	International Organization of Supreme Audit Institutions
JPDA	Joint Petroleum Development Area
LOGF/BFM	Law on Budget and Financial Management
PA	Program Audit
PGA	Global Audit Plan
PSC	Production Sharing Contracts
NIC/IAS	International Accounting Standards
SCI/ICS	Internal Control System
TL	Timor-Leste
TLEA	Timor-Leste Exclusive Area
USD	United States of America Dollars

1. INTRODUCTION

1.1. NATURE AND SCOPE

Following a request made by the National Parliament on May 14, 2013,¹ Support Services of the Board of Auditors performed a Financial Audit of the National Petroleum Authority (ANP) - years 2010-2012.

This audit focused on areas listed in the Global Audit Plan (PGA) and Audit Program (PA), not including therefore the entire organizational universe.

The conclusions expressed in this report should not be extrapolated to the rest of the universe.

1.2. BACKGROUND, METHODOLOGY AND SAMPLE

As already mentioned, this audit was based a request by the National Parliament.

The methodology followed the guidelines set out in the Technical Standards of the *International Organization of Supreme Audit Institutions* - INTOSAI, developing into the following phases: Planning, Implementation, Evaluation of Results/Reporting.

Included verifying, by sampling, supporting documentation of receipts/revenues and expenditures/expenses made by the ANP in the audited years. The sample selection was based on the verification of the internal control system (ICS), and was based on the following methods (statistical and non-statistical):

- a) Non-statistical sampling/in blocks (expenses like “wages and salaries” and “contributions to the pension fund”);
- b) Statistical sampling/selection aleatóriae[?] selection by “monetary units” - Monetary Unit Sampling - other personnel costs and overhead and administration costs;
- c) Examine 100% - Revenue/Income.

The representativeness of the sample selected on ANP annual Expenses was 47%, 49% and 40%, respectively, over the years 2010-2012.

1.3. OBJECTIVES OF THE AUDIT

The development of this action aimed at the following objectives:

- Assess the reliability of the Internal Control System - ICS;
- Assess the degree of preparation of inventory of assets of the entity as regards in particular to their valuation and respective depreciation;
- Analyze the correctness of the financial statements in accordance with applicable accounting standards and report on them;
- Verify the legality and regularity of revenue and expenditure and appreciate sound financial management.

1.4. WORK COLLABORATION

We note the good cooperation extended by the officers and employees of the ANP, timely response to requests for information and clarifications given in the course of this action, and there were no restrictions and/or limitations to the work done by the Audit Team.

¹ Pursuant to Article 12.1(f) of Law no. 9/2011 of 17 August.

1.5. ADVERSARY SYSTEM

In the exercise of the Adversary System, enshrined in article 11 of Law no. 9/2011, of August 17, Organic Law of the Chamber of Auditors, the members of the Board of the ANP were invited to, asked to, comment on the facts set out in the Audit Report, having been granted 20 working days to do so.

It should be noted that the ANP requested an additional 15 days beyond the 20 days provided for their response.

The ANP, in the person of its President, presented their claims, on January 27, 2014.

With a view to full compliance with the Adversary System, the response received is integrated in full in Annex 6.3 of this Audit Report.

2. AUDIT OBSERVATIONS

2.1 BRIEF DESCRIPTION OF ANP

2.1.1 LEGAL FRAMEWORK

The ANP is a legal person of public law, in the form of a Public Institute (*Instituto Público*) which belongs to the public administration of the State of Timor-Leste, holds legal personality, administrative and financial autonomy, budget and its own resources, and is subject to the supervision of the Government member responsible for the petroleum area.²

Its duties are to act as a regulator of the sector/industry for petroleum, natural gas and their derivatives, in compliance with the provisions of the Petroleum Act, the Petroleum Mining Code in the Timor Sea Treaty and DL no. 20/2008 of 19 June mentioned, and shall regulate, hire, manage and monitor the economic activities linked to that upstream sector, in line with the sectorial policy of the Government.³

With regard to matters relating exclusively to the joint petroleum development area - JPDA⁴ - established by the Timor Sea Treaty, ANP acts as the "Designated Authority", being responsible to the Joint Commission.⁵

In the downstream sector, it is responsible to promote the efficient use and optimization of installed petroleum infrastructure capacity, such as pipelines, terminals, communications and transportation infrastructure, as well as ensuring national energy security and monitoring and regulating all petroleum activities order to ensure satisfactory levels of quality and supply of products to consumers.⁶

² Arts. 1.1 and 2.1 of Decree Law no. 20/2008, June 19, proceeds to the creation of ANP.

³ Arts. 1.1 and 3.1 of Decree Law no. 20/2008, cit.

⁴ Joint Petroleum Development Area.

⁵ Paragraph 3.8 of Decree Law no. 20/2008, cit.

⁶ Paragraph 3.4 of Decree Law no. 20/2008, cit.

2.1.2 GOVERNING BODIES AND ORGANIZATIONAL STRUCTURE

Their **bodies** and their mandates, among others, are the following:⁷

Chart 1 - BODIES AND MANDATES

ANP President (Chairman of the Board)	Art. 11	<ul style="list-style-type: none">a) Represent the ANP in court and outside it;b) Appoint the Executive Director for the affairs of the JPDA and the Executive Directors;c) To chair and coordinate the daily operations of the ANP, including, approve instructions;d) Preside over all meetings of the Board and the Executive Council, and to ensure the proper implementation of their decisions and deliberations;e) Coordinate the activities of the Council and of the Executive Directors, including the distribution of responsibilities among their members, as well as ensuring compliance with decisions.
Board (Governing Council)	Art. 8	<ul style="list-style-type: none">a) Define the institutional mission, the overall direction and objectives of the ANP, within the framework and limits of the public nature of the institution;b) To approve the strategic plan and institutional programs and ensure compliance;c) Approve internal regulations of the ANP or any other external efficacy, necessary for the continuation of its supervisory or regulatory activities;d) Approve, for submission to overseer [<i>Tutela – the Government official responsible for the petroleum sector – LH</i>] the annual plan for properly budgeted activities;e) To commission annually the external audit of the institution.
Auditor	Art. 14	<ul style="list-style-type: none">a) As body of financial control, audit the economic, financial and asset management of the ANP and periodically inspect its accounts, books and records;b) Issue advice, prior to the acquisition and disposition of property;c) Issue technical advice on the budget, and produce a report on the regularity of the execution of the annual budget of the ANP to submit to the Board;d) Issue recommendations on internal control procedures;e) Inform the overseer and the Minister of Finance on irregularities found during the course of their activity.

The President of ANP⁸ may constitute an Executive Council, composed of all Executive Directors, although DL20/2008 does not indicate their mandates.

The Board is composed of its President and four Directors, two of whom, together with the President, are appointed by the Government, for a term of 4 years, following approval by the Council of Ministers. The other two members of the Board are inherently the Executive Directors of the departments of the ANP responsible for upstream and downstream activities.⁹

⁷ Pursuant to art. 6 of Decree Law no. 20/2008, cit.

⁸ In accordance with art. 10.4 of Decree Law no. 20/2008, cit

⁹ Cf. Article 7.5-7.8 of Decree Law no. 20/2008, cit.

The table below gives the composition of the Board, in the years 2010-2012:

Chart 2 - IDENTITY OF MEMBERS OF THE BOARD/IN CHARGE

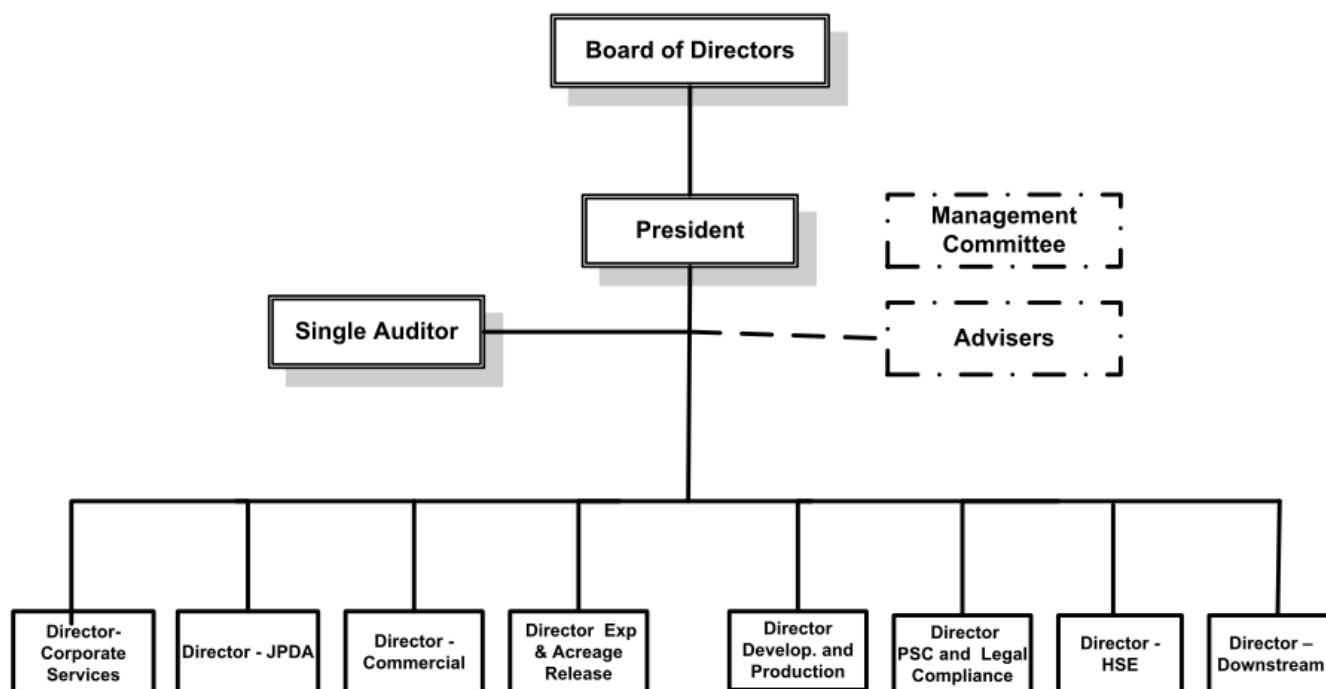
Role	Name	Period	Observation
President	Gualdino Carmo da Silva (*)	01/01/2010 to 31/12/2012	By Appointment of Government
	Francisco da Costa Monteiro (**)	01/01/2010 to 28/09/2011	By Appointment of Government
	Vicente da Costa Pinto (**)	01/01/2010 to 28/09/2011	
	Jorge Martins ¹⁰ (*)	16/02/2013 to 31/12/2012	
	Rui Soares	01/01/2010 to 30/06/2010	Director, Department of Development and Production
Members	José Manuel Gonçalves	01/06/2010 to 31/07/2011	Director JPDA Department
	Angelo Lay	01/08/2011 to 31/12/2012	Director Commercial Department
	Mateus da Costa (*)	01/01/2012 to 31/12/2012	Director Exploration and Acreage Release Department
	Nelson de Jesus (*)	01/01/2010 to 31/12/2012	Director Downstream Department

(*) He is still in office.

(**) Functions ceased by resignation

The following organogram reflects the internal organization of the ANP approved by the Board on 23 October 2010:

Figure 1 - Organogram



¹⁰ Under the Adversary System, ANP provided information that Jorge Martins was appointed a member of the ANP with effect from August 2012. Should be noted, however, that in accordance with Government Resolution no. 4/ 2012 of 15 February published in the Official Gazette, Series I, no. 6, Jorge Martins was appointed on 8 February, with effect from 16 February 2012.

2.1.3 HUMAN RESOURCES

With respect to ANP human resources, their evolution in the last three years was as follows:

Chart 3 - HUMAN RESOURCES IN MANAGEMENT - 2010 - 2012

Organic Unit	2010	2011	2012	Change 10/12
President's office	2	2	2	0%
Auditor/Internal Audit	2	2	3	50%
Directorate Corporate Services	27	30	20	11%
JPDA	2	2	3	50%
Commercial	4	5	7	75%
Exploration and Acreage Release	4	4	6	50%
Development and Production	7	8	7	0%
PSC and Legal Compliance	7	7	8	14%
Health, Safety and Environment	7	7	8	14%
Downstream	2	2	4	100%
Total Staff	64	69	78	22%

Despite having been an increase from 64 to 78 employees, it is considered that this increase is justified insofar as it is an institution created in 2008, and has been providing the human resources necessary to carry out its functions. For example, see the increase from 2 to 4 officials in the Downstream Directorate, in 2012, the year that the Decree-Law no. 1/2012 of 1 February, was established to set rules for downstream activities in Timor-Leste and the powers and responsibilities of the ANP in this matter.

The Directorate of Corporate Services has the highest number of employees as it includes administrative personnel and support personnel as cleaning staff, drivers and gardeners.

Total employees include, respectively, 6, 4 and 2 internationals in 2010, 2011 and 2012. Since May 2013 the ANP does not have any international personnel in its service.

2.2 BUDGETING PROCESS

The (overall) Annual ANP Budget is composed of: 1) annual budget dedicated to the activities of the JPDA; and 2) the budget devoted to other activities which include those relating to the Timor-Leste Exclusive Area and the Downstream Sector.¹¹

The budget 1) dedicated to the JPDA is approved by the Joint Commission,¹² with the approval of the overall budget is the competence of the Board,¹³ with the latter subject to tutelary control by the government member responsible for petroleum issues.¹⁴

By funding their activities at "all revenue resulting from fees paid by concessionaires and contractors entities, with respect to the JPDA will be used/executed within the budget dedicated to activities/operations of JPDA."¹⁵

In practice, this means that the remaining activities of ANP, must be funded by revenues other than those related to the JPDA.

¹¹ Article 7 of Decree Law no. 20/2008, cit.

¹² Art. 3.9(b), art. 7.2 and art. 18.2 of DL no. 20/2008, cit.

¹³ Art. no. 7.1 of Decree Law no. 20/2008, cit.

¹⁴ Article 2.1(a) of DL no. 20/2008, cit.

¹⁵ Cf. art. 18.2 of DL no. 20/2008, cit.

In the years 2010-2012, the remaining activities were mainly financed by transfers from the General State Budget of Timor-Leste (see point 2.8.3).

To address this situation, the ANP proceeds to impute its spending/expenses for activities of the JPDA and other activities on the basis of ratios that it defines, by organizational unit, when preparing their annual budgets. The following table presents the overall percentages used:

Chart 4 - PERCENTAGE OF EXPENSES/SPENDING IN ANNUAL BUDGETS - 2010-2012

Activities	2010	2011	2012
JPDA	73.5%	73.0%	81.0%
Remaining Activities	26.5%	27.0%	19.0%
Total	100.0%	100.0%	100.0%

Source: ANP Annual Budgets 2010-2012

The budgets of the years 2010-2012 were approved in accordance with the provisions of Law

2.3 PROCESS OF PRESENTING THE ACCOUNTS

2.3.1 PREPARATION OF FINANCIAL STATEMENTS

The ANP prepares its financial statements in accordance with International Accounting Standards (IAS) using a financial/asset accounting -- that is, Accrual Basis accounting.

In the years 2010-2012, the entity's financial statements reflect all of its assets and operations, having been subject to external audit by contractors who gave favorable and unreserved opinions.

As mentioned in the previous point, the ANP allocates their expenditures/expenses between activities of the JPDA and other activities in accordance with ratios set by themselves (see Table 4).

Nevertheless, it has not prepared financial statements or reports on financial execution by funding sources.

They have also not performed reconciliation of revenue/income and expenditure/spending by activity (JPDA versus other activities).

The External Auditor has repaired the same effect on the financial statements for the years 2011 and 2012.

These aspects are important as a way which allows knowledge at the end of each year what proportion of the treasury surplus relates to each funding source. This would therefore comply with article 18.2 of DL no. 20/2008 of 19 June¹⁶ and allow determination with greater accuracy how much ANP financing should be provided by the General State Budget of Timor-Leste.

Recommendation:

- 1. Prepare financial statements or reports on financial execution by funding source;**
- 2. Reconcile income/revenues and expenditures/spending by activity (JPDA versus other activities).**

2.3.2 DISCLOSURE OF FINANCIAL STATEMENTS

The ANP shall publicly disclose its Annual Report on its website.

But this disclosure is late, as of the date of preparation of Audit Report in November 2013, the 2012 Annual Report has not been disclosed.

¹⁶ Under this article, the revenue resulting from all fees paid by concession and contract holders, with respect to the area of the JPDA will be used/executed within the budget dedicated to the activities/operations of the JPDA, approved by the Joint Commission.

It was found also that the “versions” of the 2010 and 2011 Annual Reports disclosed of the Internet site are not complete, since the first year does not include the “Notes to Financial Statements” and the second, has no Annex I with the Financial Statements (including the Notes).

It should be noted that the financial statements of the ANP are subject to mandatory public disclosure, including “Notes” which contain more detailed information on costs/expenses of the ANP. (rewrite)

In its Adversary System response, ANP affirmed that DL 20/2008, like the Timor Sea Treaty, do not establish specific deadlines for disclosure of the Annual Reports and Accounts, but consider that their disclosure is made from time to time, being covered by its discretionary power. They added that such disclosure is made after the approval of the Annual Report by the Joint Commission. Regarding the 2012 Report and Accounts, they informed us that it was submitted to the Joint Commission in July 2013.

Regarding the arguments presented, it should be noted that, although it is not legally established to meet the deadline for the publication of the ANP Annual Report (and Accounts), this publication is not at the discretionary power of ANP since it is a general principle of sound financial management and accountability reflected in the BFM Law and the Law of the Chamber of Auditors.¹⁷

On the other hand, the fact that the 2012 Annual Report was submitted to the Joint Commission in July 2013, does not justify that, by November 2013, it had not yet been disclosed.

Finally it is also noted that no justification was presented for the non-publication of the full version of the Annual Reports and Accounts for the ANP.

Recommendation:

- 3. Timely public disclosure of the complete version of the Annual Reports and Accounts of the ANP, including the complete version of the financial statements.**

2.3.3 SENDING THE ANNUAL REPORT AND ACCOUNTS TO THE CHAMBER OF AUDITORS

Pursuant to Law n. 9/2011, of 17 August, those subject to financial control and accountability are required to present their accounts to the Chamber of Auditors, include, among others, public entities which are “public institutes”, which includes ANP.¹⁸

These entities must submit annually, by the date of May 31 of the following year, their documents to the Chamber of Auditors.¹⁹

Recommendation:

- 4. Send the ANP Annual Reports and Accounts to the Chamber of Auditors by the end of May of the year following the year to which they relate.**

2.4 SUMMARY ANALYSIS OF FINANCIAL STATEMENTS

2.4.1 BALANCE

From analyzing the balances of ANP, for the years 2010-2012 (see Annex 4.2) it follows that:

- Total assets** (Current Assets + Non-Current Assets) were \$7,028,555 in 2012, with an increase of \$1,784,655 (+34%) compared to 2010, due primarily to the increase in current assets (\$1,326,088, corresponding to 27.9%), which include Bank Deposits grew to \$1,327,764 (28.1%) between 2010 and 2012 - cf. Section 2.6;

¹⁷ See for everyone, Administrative Law, Vol I, by Mario Esteves de Oliveira, p. 313, Almedina, 2nd printing (1984), and we quote: (...) *The discretion on the one hand, when there is only conferred by law and on the other, can not the administrative body to exercise it, choose any conduct not prohibited. Instead, their actions will be legal only if the behavior chosen, the practiced act (this is our case), is that the law permits the practice.*

¹⁸ According to article 3.1(b) and article 37.1(e) of Law no. 9/2011 of 17 August.

¹⁹ Cf. article 38.4 of Law no. 9/2011 of 17 August.

- **Current Assets** amounted to \$6,086,400 in 2012, and corresponded essentially to values relating to “Cash and bank deposits” of \$6,059,172 (99.6% of total). The balance of this account was, respectively, \$4,731,408 and \$4,754,476 at the ends of 2010 and 2011;
- **Non-Current Assets** amounted, in 2012, \$942,155, and consists of Tangible Fixed Assets (\$588,726) and intangible assets (\$353,429). The first relates to computer equipment, vehicles and office equipment while the latter refers to computer programs. **The value of Non-Current Assets doubled since 2010;**
- In 2012, **Equity** totaled \$5,370,426, representing an increase of \$1,151,606 (27.3%) compared to 2010, consisting of \$2,153,168 of Initial Contribution and \$3,217,258 in Retained Earnings.
- **Liabilities** amounted, in 2012, to \$1,658,129 (\$633,049 more than in 2010) and is only “current”, of which \$1,478,004 relates to Advances in Service Fees received;²⁰

2.4.2 INCOME STATEMENT

From Income Statements 2010-2012 (see Annex 4.2), it is worth noting the following:

- The total **income** of was were an average of \$6,077,260 per year in the three year period 2010-2012, with the lowest amount in 2011 (\$5,849,821), and the highest in 2012 (\$6,472,267).
Yet on average, during the same period, ANP was 71.7% funded by the Service and Development Fees paid by operators in the JPDA and 27.9% by transfers from the State Budget;
- **The total expenditures ranged from \$5,425,519 in 2010 to \$5,630,681 in 2012, with an average of \$5,531,999 between 2010 and 2012;**
- **The Personnel expenses in 2012 reached a total value of \$2,281,873, with \$1,716,287 (75.2%) related to Salaries and \$225,741 (9.9%) as contributions to the Pension Fund.** The total personnel costs decreased by 3.3% compared to 2010, despite an increase in 22% in the number of employees between 2010 and 2012 (see point 2.1.3);
- The Administration and Overhead Expenses amounted respectively to \$2,358,585, \$2,454,402 and \$2,281,873, between the years 2010-2012 (see point 2.7.3);
- The ANP presented in the same period a positive **Net Profit** of \$484,174, \$310,023 and \$841,586.

2.4.3 STATEMENT OF CASH FLOWS

Regarding Statements of Cash Flows 2010-2012 (see Annex 6.2), which reflect the payments and receipts of the entity by Operating, Investment and Financing Activities, please note that:

- Cash Flow from **Operating Activities** was positive over the three years, reaching \$1,784,227 in 2012, which reflects the good financing capacity of the ANP;
- Cash Flow from **Investing Activities** was negative, ranging from \$240,820 in 2010 to \$507,165 in 2011, a situation that is considered normal for a time the ANP has no Investment Receipts, other than from the sale of equipment , which in 2011 was \$14,100;
- Values in **Cash and Cash Equivalents** at the end of 2010, 2011 and 2012 were, respectively, \$4,731,408, \$4,754,676, and \$6,062,832, having thus increased by 28.1%.

²⁰ These “advances” refer to amounts received by the ANP in a given year, but whose “income” will only be recognized (accounted as such) in the year following receipt, although they are liabilities of the ANP, they are not debts.

2.5 EVALUATION OF INTERNAL CONTROL SYSTEM

Based on a survey and evaluation of the existing ICS, it is concluded the following positive aspects:

Chart 5 - POSITIVE ASPECTS OF INTERNAL CONTROL SYSTEM

AREA	POSITIVE ASPECTS
General organization and Preparation of Accounts	<ul style="list-style-type: none"> Approval of the activities of the JPDA budget by the Joint Commission and submission to this Committee of its already prepared Annual Reports; The submission of the Business Plan and Budget to the government member with responsibility for petroleum issues; The existence of internal control standards and procedure manuals applicable to accounting, budgetary, financial and accounting consolidation areas; Clear definition of roles and tasks of all employees; Presentation of accounts in accordance with the accounting standards set by the International Accounting Standards.
Revenue/Income	<ul style="list-style-type: none"> Adequate control over the revenue from fees paid by operators, conducted by Commercial Directorate; The absence of debts from Service and Development Fees by petroleum operators;
Availability	<ul style="list-style-type: none"> The ANP is required by banks to have two signatures, from its President and Directors for Commercial and for Corporate Services (do not know if this applies to official accounts, such as is required by law, cf LOGF.); The amounts in cash are kept to a minimum necessary (there is only one working fund worth \$600); The internal control standards define rules for the allocation, replenishment and liquidation of working capital; Receipts in cash occur exceptionally, when selling equipment through an auction; Almost all payments are made by bank transfer, with payments by check are limited to local suppliers; Bank reconciliations are performed monthly. Consists of the same, clearly, information about any differences between calculated and bank balances are well documented;
Personnel	<ul style="list-style-type: none"> There is for each employee an individual process, updated whenever the contractual situation and its data changes; All procedures are defined in a broad range of internal standards that will become the Employee Handbook - ANP/05/01/001, Rev. 0, which defines its benefits as well as its code of conduct, up to Training Policy - ANP/05/05/002, Rev. 0; Personnel recruitment is preceded by a public tender procedure, the whole process being also defined by internal rules - Recruitment Policy, ANP/05/03/002, Rev. 0, and Procedure for Recruitment and Selection, ANP/05/03/001, Rev. 0, approved by the ANP Board.
Procurement	<ul style="list-style-type: none"> There are clear definitions of the responsibilities for authorizing expenditures for purchases of goods and services based on their function and value There are internal ANP standards which cover all aspects of these expenditures, such as Procurement Procedures, Procurement Policy, Purchase Orders, Purchase Requisitions and the procedure for Supervising and Administering Contracts. The ANP is not subject to the law governing the procurement procedure in Timor-Leste, cfr. DL n. 10/2005 of 21 November.
Assets	<ul style="list-style-type: none"> They are defined safeguards and control of goods inventories; The assets are inventoried, classified and identified in accordance with the Asset Management Manual - ANP/07/08/001, Rev 0; There are accounting policies applicable to the outputs of goods for decommissioning or loss; There is periodic physical verification of fixed assets, by the work of the Internal Audit and External Auditor.

The weaknesses identified in the ANP ICS and their potential consequences are:

Chart 6 - WEAK POINTS OF THE INTERNAL CONTROL SYSTEM

AREA	WEAKNESSES	POTENTIAL CONSEQUENCES
General organization and Preparation of Accounts	There is no reconciliation throughout the year to reconcile expenditure charged to JPDA and imputed for the remaining activities of ANP	Transfer of funds from the state budget in excess/unnecessary
	ACCPAC accounting system does not extract information from current accounts per supplier	Lack of useful information for the management inadequate control of debts to suppliers
Cash	Lack of adequate segregation of duties between accounting entries for invoices and making payments (made by the same employee)	Breach of rules and procedures to control potential diversion of money.
	Lack of adequate segregation of duties between the accounting entry of invoices, making payments to local suppliers, the realization of bank reconciliations and control and supervision of bank accounts (performed by the same employee)	Breach of rules and procedures to control potential diversion of money.
	Issue of bearer checks	Possibility of misuse of funds
	Payment of wages in cash to employees (cleaning staff, drivers and gardeners).	Possibility of misuse of funds
Personnel	Malfunction of the attendance record system	Undetected faults
	Lack of segregation of duties between the control register of attendance, entering employee data in the system and payroll (performed by the same employee)	Manipulation of attendance records resulting in harm to ANP (undue payment of wages, non-performing discounted salaries for unexcused absences)
Procurement	Breach of the law regulating procurement procedures in Timor-Leste, cfr. DL n. 10/2005 of 21 November)	Noncompliance with the mandatory procurement law, within the indirect state administration.
	Existence of procurement procedures performed by a single employee (no segregation of functions).	Inefficiencies and lack of transparency. Possibility of collusion.
	Realization of spending on the purchase of flight tickets and accommodation using a single supplier.	Possibility of collusion. Overcharging for services.

Taking into account the positive aspects listed and weaknesses identified, the ANP ICS can be considered reasonable, but needs re-evaluation by the ANP, for the correction of the weaknesses identified in this report.

Recommendation:

- 5. Correct the weaknesses of the Internal Control System identified in the audit.**

2.6 BANK ACCOUNTS

The ANP has the following balances in their accounts and bank balances [Table 1]:

Table 1 - LIST OF BANK ACCOUNTS

Number	Account	31/12/2010	31/12/2011	31/12/2012
10200	ANZ Dili U.S. \$Account - JPDA	74,849.77	48,151.10	69,456.39
10220	ANZ Dili ANP - TL	6,702.48	6,433.48	6,184.98
10250	AUD HSBC Account	104,261.55	30,836.45	195,295.32
10300	HSBC U.S. \$ (SING)	99,947.79	97,280.60	75,008.26
10350	HSBC U.S. \$ (PERTH)	4,265,045.60	4,391,174.51	5,533,227.13
12100	ANP Credit Card Security	180,000.00	180,000.00	180,000.00
Total		4,730,807.19	4,753,876.14	6,059,172.08

The ANP has bank accounts in Timor-Leste, Singapore and Australia aimed at their activity. The bank account "ANZ Dili U.S. \$Account - JPDA", is intended to make payments to local suppliers and employees, while "ANZ Dili ANP - TL" account is used primarily to receive the annual payment from the General State Budget.

The "HSBC U.S. \$(PERTH)" account is the main account of the entity by which the proceeds are received from operators and payments made to foreign suppliers.

As shown, the ANP has accumulated surpluses of cash over the years (over 28% between 2010 and 2012), whose profitability will be examined in Point 2.8.4.

Not included the financial statements of the ANP bank account opened in *Hong Kong Shanghai Banking Corporation* in Singapore, for the deposit of proceeds from the JPDA.

This account is controlled by the ANP after conciliation of their respective credits to make the transfer of revenue to the Government of Timor-Leste (Petroleum Fund), corresponding to 90% of these and destined for the government of Australia (10%), according with the Timor Sea Treaty.

2.7 DOCUMENTAL VERIFICATION OF SPENDING

The following subsections present the audit findings resulting from the documentary analysis of costs incurred by ANP in the years 2010-2012.

2.7.1 RECRUITMENT OF PERSONNEL

The procedures for personnel recruitment are developed by ANP according to internal regulations approved by its Board.

In this audit 16 personnel processes were selected to be analyzed as documentary verification procedures for personnel recruitment, developed by the ANP, in the years 2010-2012.

From documentary analysis we conclude that all analyzed hiring processes were preceded by a tender, some having complied with procedures set internally.

Nevertheless, there are urgent improvements to consider, some of them foreseen in the internal rules of the ANP.

Recommendations:

6. Regarding tenders for hiring personnel:

- **Prior formal approval by the ANP President of the description of the position, which consists of the description of the tasks as well as the professional qualifications and qualities that must be met by applicants, before the publication of the Job Announcement;**

- *Formal appointment of the Panel to Analyze Applications before the publication of the Job Announcement;*
- *Basis for choosing which candidates will put on the short list to proceed with the phase of interviews or proof of knowledge, in the light of criteria defined in the position description;*

2.7.2 PERSONNEL EXPENSES

In the years 2010-2012, the Personnel Expenses were, on average, \$2,364,953 annually, representing approximately 42.8% of the total expenses of the ANP in the same period.

Table 2 - PERSONNEL COSTS - 2010 – 2012 (USD)

Spending on Personnel	2010	2011	2012
Salary and wages	1,888,239	1,936,821	1,716,287
Superannuation	221,356	235,986	225,741
Staff health care	37,596	39,262	29,161
Home leave travel	108,909	110,906	101,585
Health Insurance	45,203	56,995	50,982
Staff Amenities	34,519	41,177	115,028
Relocation	19,217	24,536	20,955
Others	-	8,720	22,133
Compassionate	3,546	0	0
Total	2,358,585	2,454,402	2,281,873

In the three years under review these expenses decreased 3.3% as a result of the decrease in 9.1% in Salaries and Wages, by virtue of the reduction in the number of international staff (from 6 in 2010 to 2 in late 2012).

From documentary analysis of personnel costs, it is concluded that they are legal and regular, being properly supported, recorded and accounted for in accordance with IAS.

However, it is worth highlighting the aspects contained in the following points.

2.7.2.1 Salaries and Wages Expenses

Salary Tables in force

The amount of Salaries and Wages paid by the ANP to its national and international personnel are based on Salary Tables approved by its Board. The first Salary Table was approved by that body on July 1, 2008 (Employment Categories and Salary Scale - ANP/05/01/002, Rev. 0) and subsequently amended on March 1, 2009 (Rev. 1), 18 July 2011 (Rev. 2) and December 19, 2012 (Rev. 3).

The composition of the ANP's currently applied salaries for national personnel is as follows (after Rev. 3):

- Base Salary - Indexed to the amount specified in the Benefits Tables annexed to DL No. 20/2011 of June 8, which amends and republishes the DL No. 27/2008, of 11 August, approving the Career Regime and the Charges for Head of the Public Administration.
- Skills Loading – from a minimum amount corresponding to 4 times (305%) to a maximum of 4.5 times the Base Salary.
- Industry Incentive - representing approximately 25% of Skills Loading.

This composition is applied to the salaries of all ANP employees, with the exception of support personnel like drivers, gardeners and cleaning personnel.

At the end of 2012 69 of the 78 ANP employees were covered by the Salary Tables.

Until the adoption of this Salary Table on December 19, 2012 - Rev. 3, officials of the ANP received only the Base Salary.

It should be noted, however, that the change in composition of salaries did not bring any changes to the total amount.

In practice, the salaries of civil servants can be 5.2 times (422%) higher than those in the Public Administration of Timor-Leste.

The ANP, within the framework of the autonomy conferred upon it by law and the effective labor regime, is free to enter into employment contracts and fix their remuneration conditions.²¹

Nevertheless, you cannot help but take into consideration that the ANP reports to the Joint Commission in regard to matters relating to the JPDA and is under oversight of the government official for petroleum issues,²² which touches sectorial policy.

In this sense, and as a matter of transparency, accountability, and with the principles of good governance, it **is considered that the wage scale applied by the ANP must be approved by the Joint Commission and by the Government member who oversees the area of petroleum.**

Recommendation:

- 7. Submit the Salary Table in force at ANP for approval by the Joint Commission and the member of the Government responsible for the petroleum area.**

Payment of salary increases

Resulting from analysis of the pay slips for 2010-2012, we noticed a payment, in 2011, of an unjustified increase in salary corresponding to the value of the Withholding Tax paid by employees got the contributions to the Pension Fund and on the "annual holiday travel", a situation which violates the principles of present equality and tax law, as neither benefits or tax exemptions are provided for in the Tax Law of Timor-Leste.

The total amount paid in that year corresponding to this salary increase was \$22,072.

This wage increase ceased in December 2011, so that as of the date of this audit we found the situation has normalized.

2.7.2.2 Payments as Contributions to the Pension Fund

Under the salary benefits defined by ANP policies (cf. ANP/05/01/001, Rev. 0 - Employee Manual) adopted on July 1, 2008, by the ANP Board, and labor contracts concluded by them, the entity contributes monthly, on behalf of its employees, to a Pension Fund, an amount corresponding to 15% of the gross salary (including Skills Loading and Industry Incentive).

The Pension Fund is a system of social protection of employees of the ANP, upon resignation, termination of the contract or his retirement, may withdraw the contributions made by the ANP.

The employee may also request special withdrawals in "extreme circumstances" resulting from financial difficulties or serious health problems. There must be internal rules establishing objective criteria on these withdrawals.

Under the *Retirement Investment Fund Guidelines*, the Fund is managed by a "Steering Committee" consisting of no more than 7 representatives from all Directorates, elected by the workers, and the Commercial and Corporate Services Directors as "consultants".

The expenses of these contributions are reflected in the Financial Statements as Superannuation and amounted to \$225,741 in 2012 - cf. Table 2.

²¹ Pursuant to art. 15.2 of DL no. 20/2008, cit.

²² Cf art. 2 of Decree Law no. 9 20/2008, cit.

According to the *Employee Manual*, the rules of this fund are defined in internally approved standards (cf. Rev. ANP/05/06/200 - *Retirement Investment Fund Policy*). However, according to clarification provided by the Director of Corporate Services, this document was never produced.

Under its Adversary System reponse, ANP said that, *ideally, the ANP will establish an Investment Policy of the Pension Fund as provided in the Manual of ANP (...). However, according to the vision that the ANP has of the country, at the time were not yet available regulatory elements essential for a Pension Fund. Thus, having assumed that the definition of a complete investment policy of the Pension Fund could occur at a later stage in order to ensure competitive and attractive remuneration packages for the Timorese nationals (...).*

Similar to what we have said above concerning the Salary Table practiced by ANP, whose analysis is given here reproduced, it is considered that the **policy of wage benefits ANP must be approved by the Joint Commission and the member of the Government responsible the area of petroleum**, always taking into account the inclusion of the legal person ANP in Timorese Public Administration.

If the wage policy of the ANP will obtain the approvals referred to above, it is essential to establish the investment policy of the Pension Fund (Retirement Fund Investment Policy) of ANP, to ensure no arbitrariness in the allocation of amounts of the Fund employees of ANP

Recommendations:

- 8. Submit the internal rules on the policy of ANP wage benefits for approval by the Joint Commission and the member of the Government responsible for petroleum.**
- 9. Develop ANP Pension Fund Policies Investment if the policy of wage benefits will be approved by the Joint Commission and the member of the Government responsible for the petroleum area.**

2.7.2.3 Expenses for Other Benefits to Employees

In addition to contributions to the pension fund discussed in point 2.7.2.2, its employees, with the exception of "support personnel also have the following remuneration benefits:

- 1) Reimbursement of expenses for health care - medical visits and tests and drugs, in the amount of \$106,019 in the years 2010-2012.

The repayment matched 100% of the costs incurred by employees, without and limit per employee/year.

- 2) Annual Leave Travel, whose expenses amounted to \$321,399, between the years 2010-2012

Corresponding to \$800/year per employee and their spouse, totaling \$1,600, and \$400 per child with a limit of two children aged up to 18 years per employee.

Thus, a married employee with two children can receive up to \$2,400/year, as an annual holiday trip, even if they don't take the trip.

"Support personnel" (drivers, gardeners and cleaning staff) benefit from the contribution of education expenses for their children which may reach the value of \$200 per quarter.

Regarding the first situation, health care expenditures were spent by the ANP, \$106,019 in the years 2010-2012.

Note that full payment (100%) of the costs of health care by the ANP, with no maximum limit for expenses incurred by employee/year and without any contribution on their part, can lead to excessive use of this benefit by employees.

In this sense, **it is more appropriate that employees pay for a portion of these costs in order to moderate the use of consultations, medical examinations and medicines and thus also moderate spending the ANP.**

As regards the **annual holiday trip that employees are entitled under the policy established by the ANP, the corresponding expenses amounted to \$321,399, between the years 2010-2012.**

In this sense, similar to what is usually practiced by international organizations, expatriate employees are entitled to payment of an annual holiday trip back to their home country.

It is noted that in the case of expatriates, the usual practice is that if they do not travel to their country of origin, are not entitled to payment of travel.

The ANP recognized the same right to their own officials, regardless that they are not expatriates, in other words, they do their work in their country of origin, Timor-Leste.

Also according to the policy of wage benefits defined by the ANP the set amount set may be paid even without the employee and their family taking a holiday trip abroad.

2.7.3 GENERAL AND ADMINISTRATION EXPENSES

Presents the following table for Spending to acquire goods and services in the triennium 2010-2012.

Table 3 - GENERAL AND ADMINISTRATION EXPENSES - 2010 to 2012 (USD)²³

General and Administrative Expenses	2010	2011	2012
Consultants	1,079,551	853,737	1,112,787
Training, education and conference expenses	748,876	713,780	844,316
Business Travel	287,082	385,510	219,606
Telephone and Communication	119,084	147,139	149,824
Repairs and maintenance	63,692	142,099	137,511
Organizational promotion	50,678	39,435	37,378
Motor vehicles expenses	45,309	54,969	58,514
Electricity	32,535	48,363	40,204
Subscription & memberships	29,646	21,481	18,158
Security	27,115	29,430	27,500
Minor equipment	18,272	23,939	8,199
Office supplies	17,716	17,917	32,241
Printing & advertising	17,204	56,386	126,295
Bank charges	5,355	15,463	17,549
Other (*)	80,071	59,880	101,818
Total	2,622,186	2,679,437	2,861,991

(*) Includes expenses like Miscellaneous General Costs, Stationery & Office Supplies and Storage Costs

Most general and administration spending in the period relates to consulting services and spending on education and participation in conferences (68% of those expenses. The remaining 32% relate to expenses such as telephones, electricity and travel (not related to training).

²³ Data for 2010 have been revised in accordance with the information provided in the Adversary System.

In the consultancies they include the hiring of specialized services in the petroleum sector, such as, for example, the following:

Table 4 - CONSULTING SERVICES - 2010 - 2012 (USD)

Description of work	2010	2011	2012
Safety Case Training Modules	214,380		
Geological TLEA in Prospect Review and JPDA	155,000		
Sunrise Resources Review	50,000		
TLEA & JPDA PCS's Model Review		60,000	
Condensate & LPG Sales for 2010 Review		35,000	
Bayu Undan Inspection		100,000	
Safety Case Review on FSPO		104,500	
Drafting TLEA Offshore Regulation		300,000	
Bayu Undan Second Phase Process Inspection 2012			161,266
Bayu Undan Marketing Review for Condensate and LPG 2011 Sales			35,000
Gas Measurement Audit for Darwin LNG			15,840
Marketing Performance of Kitan Crude Oil Sales for First Six Months (Oct 2011 - Apr 2012)			25,000

The cost of participation in trainings and conferences include the payment of registration fees, accommodation costs, air travel and subsistence.

2.7.3.1 Procurement Procedures

ANP Procurement procedures are performed based on internal rules adopted by the Board (see, inter alia, ANP/01/01/001 Rev. 0 - *Procurement Policy*, adopted on April 22, 2009 and ANP/14/02/002 Rev. 0 - *Procurement Procedure*, adopted on September 20, 2011).

Pursuant to *Procurement Policy*, purchases of goods and services shall be governed, inter alia, the following principles: i) value for money; ii) competition; iii) impartiality and, iv) efficiency and effectiveness.

According to the *Procurement Procedure* for acquisitions of goods and services worth more than \$500, inquiries should be made to the market and obtained, depending on the amount, at least 2 quotations, are stipulated stages of the procurement process as well as the powers and responsibility of each organizational unit.

Thus, based on the analysis of the sample selected for verification of the legality and regularity of expenditure for the period 2010-2012, it is concluded that the expenditure incurred by the ANP respect its internal rules, **but not legal standards in force on this topic in Timor-Leste.**

2.7.3.2 Expenditures on Travel

Applicable Internal Standards

The completion of travel expenses is made in accordance with standard ANP/06/06/007 Rev. 0 - Travel Policy, approved by the Governing Board on July 1, 2008.

In this standard are defined, in particular, on procedures for the purchase of airline tickets and booking accommodation.

Should be noted, first, that these purchases involving the acquisition of services and are therefore also subject to the rules ANP/01/01/001 Rev. 0 - *Procurement Policy* and ANP/14/02/002 Rev. 0 - *Procurement Procedure*, mentioned in the previous point.

Systematic recourse to Direct Award

Documentary analysis of expenditure incurred by the ANP for the purchase of airline tickets and accommodation, there was the systematic use of the Direct Award [single-source, with no public tender].

In addition, these awards were made to a very limited number of travel agencies. Indeed, ANP paid only 2 travel agencies the following values in the years 2010 to 2012.

Table 5 - PAYMENTS TO TRAVEL AGENCIES - 2010 - 2012 (USD)

Company	2010	2011	2012
Harvey World Travel, Dili	250,983	219,212	44,399
Ratna Artha Wisata, Bali	89,985	196,177	314,455
Annual Total	340,968	415,389	358,854

According to the Travel Policy, buying airline tickets must be based on “best fare of the day”, consisting in this fare that offers the best price/quality ratio, taking into account the most direct route to the final destination and allowing changes for unforeseen developments.

Thus, it is considered that the practice of the ANP, to resort to Direct Award to purchase airline tickets is contradictory to what is defined in their internal rules for the following reasons:

- 1) First of all why is their *Procurement Procedure* which requires that, for purchases exceeding \$500, at least two suppliers queries are made;
- 2) On the other hand, it is not possible for the ANP to know whether the rate offered by a travel agency is the “best of the day” and is the one that offers the best cost/benefit ratio, as provided in the *Travel Policy*, when they have no basis for comparison for failing to consult with more than one agency.

Given the above it is considered that **the ANP must urgently change the way it conducts the purchase of airline tickets, since its practice does not promote competition between suppliers and jeopardizes compliance with the principles of economy, efficiency and effectiveness of public expenditure.**

Regarding this matter ANP said in its **Adversary System response**, in essence, *that it is extremely difficult to find other agencies responsive to the needs of the ANP, whose employees travel very often and require assistance 24 hours a day, adding that, at the present date ANP resorted to two travel agencies (Harvey World Travel and Ratna Travel) to purchase airline tickets and accommodation for the simple reason that these are the only local travel agencies with the capacity to meet the needs of the ANP.*

Regarding these arguments is noted that **the Ratna Travel is not a local company, contrary to the assertion, being, in effect, a travel agency in Bali, Indonesia, without an office in Timor-Leste.**

In this sense, and despite being able to recognize that not all existing travel agencies in Timor-Leste may be able to meet the demands of ANP, it is certain that nothing blocks the ANP from using travel agencies located in other countries, stimulating, this way, competition between travel agencies, demonstrably since the relationship between the cost of travel and IATA security (invoked by ANP), justifying significant savings to the public purse, which has not been proved in this audit.

In this sense, we maintain the findings of the Audit Report and **recommend:**

10. Cease direct award procurement of airline tickets and accommodation.

It was also found that on the day of the 29th Meeting of the Joint Commission and 7th Meeting of the Sunrise Commission in Brisbane, Australia, in December 2010, the ANP proceeded to purchase six air tickets for their leaders at the end of October of the same year, and therefore paid a total of \$24,550 relating to unit prices ranging between \$3,800 and \$4,200.

Subsequently, on December 3, ANP apparently asked the travel agency, a reissue of the same tickets and paid in respect of the six flights cited above, for \$20,100 more, which were compounded by over \$11,665

for the reissue of three other airline tickets, totaling \$31,765, which represented an unjustified burden on the public purse.

As a result, each airline ticket cost to ANP, on average \$7,441, an amount that is considered grossly exaggerated, given that the final destination was Brisbane.

In its Adversary System response, ANP reported that issuing new invoices was due to an *upgrade from economy class to business class, which it justified in view of the presence in high-level meetings, as in the case of meetings of the Joint Commission and Sunrise Commission*, recognizing that because the reservations were not just made in October in business class, their amount was inflated.

2.8 DOCUMENTARY VERIFICATION OF INCOME

2.8.1 FINANCING MODEL

In the years 2010-2012, the activities of ANP were funded through Service and Development Fees paid by the operators of the JPDA and by transfers from the General State Budget of Timor-Leste.

In this period the ANP got other income from the sale of equipment and interest on bank deposits.

2.8.2 DEVELOPMENT FEES AND SERVICE FEES

The ANP's own revenues are from Development and Service Fees payable by the Operators of the JPDA²⁴

The Development Fee shall be payable from the time the operator shall notify the Designated Authority/ANP have conducted a Commercial Discovery.²⁵ This fee is paid quarterly per calendar year.

By 2012, the amounts in force were \$2,814,000/year for Bayu Undan (PSC 03-12 and 03-13), and \$250,000/year (06-105 PSC) for Kitan. By the Joint Commission's decision, following a proposal by the ANP, these values were increased by 30% and consequently changed respectively to \$3,658,200 and \$325,000.

According to art. 45 of the *Production Mining Code for the Joint Petroleum Development Area*, the operator shall pay, at the beginning of each contract year, to the "Designated Authority"/ANP a "service fee" in the amount of \$160,000.

For the latest contract the value of the Service Fee was set at \$80,000/year.

²⁴ Pursuant to art. 17 of DL no. 20/2008, cit.

²⁵ Means the Discovery of Petroleum declared commercially viable by a Contractor.

Revenues obtained from Development and Service Fees and related receipts in the years 2010 to 2012 were as follows:

Table 6 - DEVELOPMENT AND SERVICE FEES - 2010 to 2012

Ano	Descrição	Operador	USD	
			Recebimentos / Fluxos de Caixa	Rendimentos / Demonstração de Resultados
2010	Contract Service Fees 03-12	Conoco Philips JPDA_BU	160.000	160.000
	Contract Service Fees 03-13	Conoco Philips JPDA_BU	160.000	160.000
	Contract Service Fees 03-19	Woodside Petroleum_GS	160.000	160.000
	Contract Service Fees 03-20	Woodside Petroleum_GS	160.000	160.000
	Contract Service Fees 06-101A	MINZA	80.000	80.000
	Contract Service Fees 06-102	PETRONAS	0	79.342
	Contract Service Fees 06-103	OILEX	80.000	80.000
	Contract Service Fees 06-105	ENI JPDA_KITAN	160.000	160.000
	Development Fees BAYU UN DAN	Conoco Philips JPDA_BU	2.814.000	2.814.000
	Development Fees KITAN	ENI JPDA_KITAN	250.000	250.000
Subtotal 2010			4.024.000	4.103.342
2011	Contrac Service Fees 03-12	Conoco Philips JPDA_BU	160.000	160.000
	Contrac Service Fees 03-13	Conoco Philips JPDA_BU	160.000	159.982
	Contrac Service Fees 03-19	Woodside Petroleum_GS	160.000	159.893
	Contrac Service Fees 03-20	Woodside Petroleum_GS	160.000	159.943
	Contrac Service Fees 06-101A	MINZA	80.000	79.822
	Contrac Service Fees 06-103	OILEX	80.000	80.000
	Contrac Service Fees 06-105	ENI JPDA_KITAN	160.000	159.880
	Development Fees BAYU UN DAN	Conoco Philips JPDA_BU	2.814.000	2.814.000
	Development Fees KITAN	ENI JPDA_KITAN	250.000	250.000
Subtotal 2011			4.024.000	4.023.520
2012	Contrac Service Fees 03-12	Conoco Philips JPDA_BU	160.000	160.044
	Contrac Service Fees 03-13	Conoco Philips JPDA_BU	160.000	160.018
	Contrac Service Fees 03-19	Woodside Petroleum_GS	160.000	160.107
	Contrac Service Fees 03-20	Woodside Petroleum_GS	160.000	160.057
	Contrac Service Fees 06-101A	MINZA	80.000	80.178
	Contrac Service Fees 06-103	OILEX	80.000	80.008
	Contrac Service Fees 06-105	ENI JPDA_KITAN	160.000	160.120
	Development Fees BAYU UN DAN	Conoco Philips JPDA_BU	4.572.750	3.658.200
	Development Fees KITAN	ENI JPDA_KITAN	325.000	325.000
Subtotal 2012			5.857.750	4.943.733
Total 2010 a 2012			13.905.750	13.070.595

There was no existence of any debt by the Operators to ANP.

2.8.3 TRANSFERS FROM THE GENERAL STATE BUDGET

In the years 2010 to 2012 a total of \$5,100,000 was transferred from the Timor-Leste General State Budget to the ANP, of which \$1,800,000 was in 2010 and 2011, and 1,500,000 in 2012. These transfers were made from the Budget allocated to the Secretary of State for Mineral Resources (now the Ministry of Petroleum and Mineral Resources).

According to Decree-Law no. 20/2008, cit, these transfers are intended to finance the activities of ANP unrelated to the JPDA, such as those relating to the Timor-Leste Exclusive Area and the Downstream sector.

According to the analysis already carried out in section 2.8 of this Audit Report, it is fundamental to reconcile expenditure and revenue for ANP activities, so that one can define more closely what the entity's funding needs which must be provided by General State Budget of Timor-Leste.

Although it is not a matter for the ANP, it is noted that **the amount of the transfer made annually from the General State Budget, is not clearly identified.** Indeed, from the analysis of this budget, as it is approved by the National Parliament, **one cannot determine the value that the Government intends to transfer to ANP annually.**

This situation should be rectified in the future.

2.8.4 INTEREST ON BANK DEPOSITS

The ANP has been over the years to accumulate high cash surpluses. At the end of 2012, had in Bank Deposits "to order" \$5,879,172, of which \$5,533,227 (94.1%) in the "HSBC US\$(PERTH)" - cf. Section 2.6.

Nevertheless, Income from Interest on Bank Deposits have been greatly reduced (respectively, \$2,872, \$3,084, \$263 in the years 2010, 2011 and 2012).

Whereas existing high average balances deposits can even be assumed that the yields obtained were insignificant. For example, imagine the investment of half (\$2,939,586) of the existing balance in "HSBC US \$(PERTH)" in late 2012, for a period of 12 months with an interest rate of 1%/year, which would yield \$29,395 gross.

In this sense, *it is recommended:*

11. *Establish no-risk, short-term financial investments for its cash surpluses in order to achieve greater profitability.*

2.8.5 OTHER INCOME

During the year 2012 the ANP, also obtained proceeds from the sale by auction of three vehicles (\$24,250) and a generator (\$4,000), totaling \$28,250. The book value of this equipment was zero.

The procedure of sale of equipment held by auction, followed by internal rules, as regards, first, the obligation of conducting the auction, but also the publication of the same in the local paper.

2.9 JUDGEMENT ON THE FINANCIAL STATEMENTS

The analysis and only the precise extent of the same is possible to conclude that:

- a) revenue/income of ANP the years 2010 to 2012 are legal and regular;
- b) expenditure incurred by year, between 2010 and 2012, complied with the internal rules except those relating to travel, analyzed in point 2.7.3.2 of this audit report.
- b) The system of internal control in the areas examined and evidenced within the constraints is reasonable;
- c) The Financial Statements of ANP reflect the fullness of its operations, taking into account the NIC.

To this extent, the final assessment regarding the reliability of financial statements of the ANP, for the years 2010-2012 is favorable with marked reservations.

3 MAIN OBSERVATIONS AND CONCLUSIONS OF AUDIT

POINT CONCLUSIONS AND COMMENTS

2.1.1 Legal Framework

The ANP has the duties to act as the regulator of the petroleum, natural gas and their derivatives sector/industry, and shall regulate, hire, manage and monitor the economic activities connected with that upstream sector, in line with the sectorial policy of the Government.

With regard to matters relating exclusively to the Joint Petroleum Development Area (JPDA) established by the Timor Sea Treaty, ANP acts as the "Designated Authority", being responsible to the Joint Commission.

In the downstream sector, it is up to it, namely, to promote the efficient use and optimization of petroleum infrastructure.

2.1.3 Human Resources

In 2010-2012, the number of ANP employees increased from 64 to 78, a fact considered normal for an entity created in 2008 and which must provide the necessary human resources to carry out its functions.

Since May 2013 that the ANP does not have any international staff in its service.

2.2 and

2.3.1 Budgeting and Preparation of Financial Statements

The Annual Budget (Global) ANP consists of the annual budget for the activities of the JPDA and the other budget for activities related to the Timor-Leste Exclusive Area and the Downstream Sector.

The budgets for 2010 to 2012 dedicated to JPDA - Timor Sea Treaty - activities were approved by the Joint Commission while the Global Budgets were approved by the Board, pursuant to the Law.

Revenues from fees paid by operators of the JPDA shall, under the Law, be used/executed only to pay expenses for the activities/operations of the JPDA, which has been complied with the ANP, proceeding, to the effect of assigning its spending/expenses for JPDA activities and other activities according to predefined ratios.

However, it has not prepared financial statements or reports on financial execution by funding sources.

There has also been no reconciliation of income/revenues and expenditures/spending by activity (JPDA versus other activities) carried out in order to determine, at the end of the year, what proportion of the excess funds are with respect to each funding source.

With this reconciliation, may be determined with greater accuracy the financing needs of the ANP which must be provided by the General State Budget of Timor-Leste.

2.3.2 The Process of Providing Accounts

The ANP proceeded to publish its Annual Report on its website late, but had not, at the date of preparation of the Audit Report, November 2012 [sic, actually 2013], published the 2012 Annual Report.

The “versions” of 2010 and 2011 Annual Reports disclosed on its website, are not complete, since the first year does not include the “Notes to Financial Statements”, while in the second, there is no Annex I to the Financial Statements (including the Notes), elements that must be mandatory public disclosure.

2.5 Assessment of the Internal Control System

Taking into account the positive aspects listed and weaknesses identified, the ANP Internal Control System can be considered reasonable, but needs re-evaluation by the ANP, for the correction of the weaknesses identified in this report.

2.6 Bank Accounts

The ANP has 6 bank accounts in Timor-Leste, Singapore and Australia aimed at their business, whose balances amounted to, at the end of 2010 to 2012, respectively, \$4,730,807, \$4,753,876 and \$6,059,172.

We could not determine if official accounts such as this are required to follow the Budget and Financial Management Law.

2.7.1 Recruitment

The hiring of ANP personnel was preceded by public tender, having generally been respected the procedures defined internally, as well as the principles of transparency, competition and equality.

2.7.2 Personnel Expenses

In the years 2010-2012, the Personnel Expenses were, on average, \$2,364,953 annually, representing approximately 42.8% of the total expenses of the ANP in the same period.

In the three years under review these expenses decreased 3.3% as a result of the decrease by 9.1% in Salaries and Wages, by virtue of the reduction in the number of international personnel (6 in 2010 to 2 at the end of 2012).

The Personnel expenses are legal and regular provided that they are properly supported, recorded and accounted for.

2.7.2.1 Expenses for Salaries and Benefits

Salary Tables in force

The value of Salaries and Wages paid by the ANP to its national and international personnel are based on Salary Tables approved by its Board of Directors.

The composition of the currently applicable ANP salaries for national staff is as follows:

- Base salary - indexed to the amount specified in the tables annexed to the Career Regime and the Manager and Head of Public Administration.
- Skills Loading – a minimum corresponding to 4-fold (305%) and a maximum of 4.5 times the Base salary.
- Industry Incentive - representing approximately 25% of Skills Loading.

In practice, the salaries of national civil servants can be 5.2 times (422%) higher than those in Public Administration in Timor-Leste.

The ANP, within the framework of autonomy given to it by DL no. 20/2008, cit. and the labor regime, has the freedom to sign labor contracts with its employees and fix their remuneration conditions.

However, **whereas the ANP reports to the Joint Commission in regard to matters relating to the JPDA and to the Trusteeship (*SERN or MPRM*) which is assigned to a member of the Government of Timor-Leste responsible for petroleum issues, pay scales should be applied subject to approval by the Joint Commission and the Ministry.**

2.7.2.2 and

2.7.2.3 Expenses to Contribute to the Pension Fund and other Employee Benefits

Under the wage benefits defined by ANP policies, the entity contributes monthly, on behalf of its national staff, to a Pension Fund, 15% of the gross salary (including Skills Loading and Industry Incentive).

In the years 2010 to 2012 were spent from these contributions \$683,083 (with national and international staff).

Employees also benefit from the reimbursement of health care (100% reimbursement of the costs incurred for medical appointments and tests and drugs) and payment of annual vacation trip (Annual Leave Travel), which can reach the value of \$2,400 per year per employee.

With these last two benefits were spent between 2010 and 2012, a total of \$427,418. These benefits must be approved by the Joint Commission and the overseeing agency, as stated for the pay scales in force.

2.7.3 Overhead and Administration

Most overhead and administration spending in the period analyzed refers to advisory services and expenditures for training and participation in conferences (this work consumed 68% of the amount spent on goods and services in 2012). The remaining 32% relates to expenses for telephones, electricity and travel (not related to the training included in the previous paragraph).

Consultancies include the hiring of specialized services in the petroleum sector.

2.7.3.1 Procurement Procedures

Expenditure on the acquisition of goods and services during the years 2010 to 2012 met the standards set internally, except for travel related, which we consider irregular situation which should be changed in line with applying the laws of Timor-Leste in these matters

2.7.3.2 Expenditures on Travel

Systematic Recourse to Direct Award

From documentary analysis of expenditures incurred by the ANP to purchase airline tickets and accommodation, there was the systematic use of the Direct Awards.

Moreover, these awards were made to a very limited number of travel agencies. Indeed, ANP paid only 2 travel agencies in the years 2010-2012, a total of \$1,115,210.

The systematic use of Direct Award does not promote competition between suppliers and jeopardizes compliance with the principles of economy, efficiency and effectiveness of public expenditure.

2.8 Financing Model

In the years 2010-2012, the activities of ANP were financed essentially by the Service and Development Fees paid by the operators of the JPDA and by transfers from the State Budget of Timor-Leste.

2.8.1 Development and Service Fees

Until 2012, the amounts paid by the operators of the JPDA to ANP, as Development Fees, were \$2,814,000/year for Bayu Undan, and \$250,000/year (06-105 PSC) for Kitan. By decision of the Joint Commission, on a proposal by the ANP, ruling these amounts were increased by 30% and consequently changed respectively to \$3,658,200 and \$325,000, applicable to year 2012 and following.

Regarding the Service Fee is \$80,000 or \$160,000/year, depending on the Contract.

In the years 2010-2012, total annual receipts of ANP from these fees were, respectively, \$4,024,000 in 2010 and 2011, and \$5,857,750 in 2012. Such fees are intended to finance activities of ANP related to the JPDA.

2.8.2 Transfers from the State Budget

In the years 2010 to 2012 a total of \$5.1 million was transferred from the General Budget of the State of Timor-Leste for the ANP, of which \$1.8 million in 2010 and 2011 and \$1.5 million in 2012, which added to the amount from of the development fees and service charges paid by operators, and constitute almost all of ANP's revenue.

These transfers were made the General State Budget allocation to the Secretary of State for Mineral Resources and were allocated to ANP activities unrelated to the JPDA, such as those relating to the Exclusive Area of Timor-Leste and the Downstream sector.

The total revenues of the ANP in the years 2010 to 2012 were, respectively, \$5,909,693, \$5,849,821 and \$6,472,267.

2.9 Judgment on the Financial Statements

The final assessment regarding the reliability of financial statements of the ANP, for the years 2010 to 2012 is favorable.

4 RECOMMENDATIONS

In view of the main conclusions and observations made in this Report, it is recommended to adopt the following measures:

1. Prepare financial statements or reports on financial execution by funding source;
2. Reconcile income/revenues and expenditure/spending by activity (JPDA versus other activities);
3. Timely public disclosure of the complete version of the ANP Annual Reports, including the complete version of its financial statements;
4. Send the ANP Annual Reports and Accounts to the Chamber of Auditors by the end of May of the year following the year to which they relate;
5. Correct the weaknesses of the Internal Control System identified in the audit.
6. Regarding tenders for hiring personnel:
 - Prior formal approval by the ANP President of the description of the position, hence containing the description of the tasks and the qualifications and professional qualities that must be met by applicants, before the publication of the Job Announcement;
 - Formal appointment of the Panel to Analyze Applications, also before the publication of the Job Announcement;
 - Basis for choosing which candidates will put on the short list to proceed with the phase of interviews or proof of knowledge, in the light of criteria defined in the position description;
7. Submit the Salary Table in force at ANP for approval by the Joint Commission and the member of the Government responsible for the petroleum area;
8. Submit the internal rules on the policy of ANP wage benefits for approval by the Joint Commission and the member of the Government responsible for the petroleum area.
9. Develop ANP Pension Fund Policies Investment if the policy of wage benefits will be approved by the Joint Commission and the member of the Government responsible for the petroleum area.
10. Cease direct award procurement of airline tickets and accommodation;
11. Establish no-risk, short-term financial investments for its cash surpluses in order to achieve greater profitability.

5 DECISION

For these reasons, the Judges of the Court of Appeal decides:

- 1) To approve this report;
- 2) To determine that, within 180 days, ANP will inform the Court of Appeals on the follow-up to recommendations made in this report;
- 3) To order transmission of copies of this report to:
 - a. The President of the National Parliament;
 - b. The Minister of Petroleum and Mineral Resources;
 - c. The National Petroleum Authority;
 - d. The Prosecutor-General;
- 4) To order that the report be published on the website of the Courts.

Court of Appeals, March 20, 2014.

O Juiz Conselheiro Relator,



(Guilhermino da Silva)

Os Juizes Conselheiros,



Deolindo dos Santos



Maria Natércia Gusmão Pereira

6 APPENDICES

6.1 CREDITS

General Coordination/Supervision	Maria Alexandra Mesquita
Directorate of Audit Team	Luis Filipe Mota
Audit Team	Agapito Soares Santos Agapito de Araújo Aidil Oliveira Eduardo Leitão Hermenegildo G. Amaral José Gouveia Lopes

6.2 FINANCIAL STATEMENTS - 2010 TO 2012

	USD		
Statements of Financial Position	2010	2011	2012
ASSETS			
Current Assets			
Cash and Cash equivalents	4.731.408	4.754.476	6.059.172
Trade and Other receivables	13.420	21.189	15.651
Other non Financial assets	15.484	27.189	11.577
Total Current Assets	4.760.312	4.802.854	6.086.400
Non-Current Assets			
Property, Plant and Equipment	453.555	610.724	588.726
Intangibles	30.033	116.497	353.429
Total Non-Current Assets	483.588	727.221	942.155
TOTAL ASSETS	5.243.900	5.530.075	7.028.555
LIABILITIES AND EQUITY			
Current Liabilities			
Trade and other payables	351.579	287.005	180.125
Provision for annual leave	109.994	150.243	0
Prepaid Contract Service fees	563.507	563.987	1.478.004
Total Current Liabilities	1.025.080	1.001.235	1.658.129
Equity			
Initial contribution	2.153.170	2.153.168	2.153.168
Accumulated Funds	2.065.650	2.375.672	3.217.258
Total Equity	4.218.820	4.528.840	5.370.426
TOTAL EQUITY AND LIABILITIES	5.243.900	5.530.075	7.028.555

Source: Annual Financial Statements for the years 2010-2012

	USD		
Statements of Comprehensive Income	2010	2011	2012
INCOME			
Revenue			
Development Fees	3.064.000	3.064.000	3.983.200
Contract Service Fees	1.039.342	959.520	960.533
Subsidy From Timor-Leste Government	1.800.000	1.800.000	1.500.000
Interest	2.872	3.084	263
Net Gain in Foreign Exchange	3.096	4.117	-
Profit on Disposal of Assets	383	14.100	28.250
Other Income	-	5.000	20
TOTAL INCOME	5.909.693	5.849.821	6.472.267
EXPENSES			
Employee Benefits	(2.358.585)	(2.454.402)	(2.281.873)
General and Administration	(2.622.186)	(2.679.437)	(2.861.991)
Depreciation and Amortization	(244.796)	(267.206)	(289.387)
Contingency	(161.574)	(138.753)	(196.578)
Net Loss in Foreign	(38.378)	-	(852)
TOTAL EXPENSES	(5.425.519)	(5.539.798)	(5.630.681)
Surplus for the Year	484.174	310.023	841.586
Other Comprehensive Income	-	-	-
TOTAL COMPREHENSIVE INCOME FOR THE YEAR	484.174	310.023	841.586

Source: Annual Financial Statements for the years 2010-2012

	USD		
Statements of Cash Flows	2010	2011	2012
CASH FLOW FROM OPERATING ACTIVITIES			
Fees From Operators	4.024.000	4.024.000	5.857.750
Income From Timor-Leste Government	1.800.000	1.800.000	1.500.000
Interest Received	2.872	3.084	263
Other Income	-	5.000	20
Net Gain on Foreign Exchange	-	4.117	-
Less: Net Loss on Foreign Exchange	-	-	(852)
Less: Personnel Costs	(2.300.231)	(2.417.877)	(2.397.251)
Less: Other Operating Expenses	(2.501.264)	(2.749.138)	(2.979.125)
Less: Contingency Expenses	(124.764)	(138.753)	(196.578)
Net Cash Flow From Operating Activities	900.613	530.433	1.784.227
CASH FLOW FROM INVESTMENT ACTIVITIES			
Proceeds on Disposal of Property, Plant & Equipment	383	14.100	37.510
Proceeds From Investments	-	-	-
Purchase of Intangibles	(247)	(137.619)	(284.005)
Purchase of Property, Plant & Equipment	(240.956)	(383.645)	(229.576)
Net Cash Flow (Used in) Investment Activities	(240.820)	(507.165)	(476.071)
CASH FLOW FROM FINANCE ACTIVITIES			
Net Cash Flow From Finance Activities	-	-	-
Net Increase in Cash and Cash Equivalents	659.793	23.268	1.308.156
Add Opening Balance Carried Forward	4.071.615	4.731.408	4.754.676
Cash and Cash Equivalents Ending Balance	4.731.408	4.754.676	6.062.832
Comprising:			
Cash on Hand and at Banks	4.731.408	4.754.676	6.062.832

Source: Annual Financial Statements for the years 2010-2012

6.3 RESPONSE OF THOSE RESPONSIBLE UNDER THE ADVERSARY SYSTEM

COURT OF APPEAL

Proc. TR/CContas/2013/219

Dili, 27 January 2014

Venerable Judge Counselors:

The NATIONAL PETROLEUM AUTHORITY (ANP), which was notified, on December 3, 2013, of the Audit Report for 2010 to 2012 referenced in the heading, comes, very respectfully and in accordance with Article 11 of Law no. 9/2011, of 17 August, which approved the Chamber of Auditors of the High or Administrative, Tax and Audit Court (whose functions are carried out by this Court of Appeal), presents this Adversary System pronunciation which, for this purpose, is attached.

We also take this opportunity to thank V/Excya, Venerable Judge Counselors, in the person of the President of the Court of Appeal, Dr. Claudio Ximenes, for granting the request to extend the deadline for the submission of this pronunciation.

With high esteem and consideration, accept, venerable Sirs, our highest compliments.

The President of ANP

/s/

(Gualdino Silva)

Attached: 1 document and 10 attachments in own dossier. [Note: the Court did not make the attachments available on its website.]

27.01.2014
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TRIBUNAL DE RECURSO
Proc. TR/CContas/2013/219

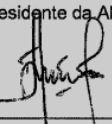
Dili, 27 de janeiro de 2014


VENERANDOS JUIZES CONSELHEIROS:

AUTORIDADE NACIONAL DO PETRÓLEO (ANP), tendo sido notificada, a 3 de dezembro de 2013, do aliás douto Relato de Auditoria referente aos anos de 2010 a 2012 à margem referenciado, vem, muito respeitosamente e nos termos do disposto no artigo 11.º da Lei n.º 9/2011, de 17 de Agosto, que aprovou a Orgânica da Câmara de Contas do Tribunal Superior Administrativo, Fiscal e de Contas (cujas funções são exercidas junto deste Tribunal de Recurso), apresentar em sede de contraditório a sua pronúncia que, para o efeito, se junta em anexo.

Aproveitamos ainda a oportunidade para agradecer a V/ Ex.as, Venerandos Juizes Conselheiros, na pessoa do Senhor Presidente do Tribunal de Recurso, Dr. Cláudio Ximenes, o deferimento do pedido de extensão do prazo para a apresentação da presente pronúncia.

Com elevada estima e consideração, aceitem, Senhores Venerandos, os nossos melhores cumprimentos,

O Presidente da ANP

(Gualdino Silva)



Junta: 1 documento e 10 anexos em dossiê próprio.

ANP response to observations of the Chamber of Auditors of the Court of Appeal

No.	NOTE	ANP RESPONSE
1	2.1 Brief characterization of ANP	
2	2.1.1 Legal Framework	
3	2.1.2 Organizational Structure and Governing Bodies	<p>Clarification:</p> <ol style="list-style-type: none"> 1. Table 2 indicates that Mr. Jorge Martins served as Governing Council Member between 8/02 and 3/12/2012. However, this information is not correct, to the extent that the Member was appointed with effect from August 2012, a position he continues to serve to date. 2. Please add the following names of the directors of upstream who took office between 2010 and 2012: Rui Soares, January to June 2010; José Manuel Gonçalves, June 2010 to July 2011; and Angelo Lay, August 2011 to December 2012.
4	2.1.3 Human Resources	We understand and agree with the observation.
5	2.2 Budgetary Process	We understand and agree with the observation.
6	2.3 Process of Accountability	
7	2.3.1 Preparation of Financial Statements	<p>COMMENT:</p> <ol style="list-style-type: none"> 1. At this time, for the purposes of public disclosure, the financial statements of the revenues of ANP have been reported by source of funds, though not reflect the segregation of expenditures, as noted in the Audit Report. However, the accounting system of the ANP has produced reports that reflect the segregation of the two sources, but only for internal use. The ANP has taken note of this and will proceed accordingly in the financial statements for the year 2013. 2. ANP noted the observation of the Board of Auditors on this subject. This issue was also raised by the External Auditor of ANP in the last two years. The ANP has considered this issue from 2013 for the purpose of improving thereafter, the ACCPAC accounting system.
8	2.3.2 Disclosure of Financial Statements	<p>COMMENT:</p> <p>The Board of Auditors noted that as of the date of the Audit Report, the 2012 Annual Report and Accounts had not yet been published. The ANP hereby clarifies that, although the report has not yet been publicly disclosed, the same was submitted to the Joint Commission in July 2013. Moreover noted that both Decree-Law no. 20/2008, as well as the Timor Sea Treaty, do not establish specific deadlines for disclosure of the ANP Annual Reports and Accounts. Nevertheless, the ANP has tried from time to time and according to your discretion in this matter, promote your Annual Report and Accounts after receiving the reports of the External Auditor and submit the same to the Joint Commission. Due to the powers of the Joint Commission in this regard, we understand that it does not make sense to disclose the reports prior to that date.</p> <p>The ANP also took note of the recommendation to publicly release the full version of their financial statements in accordance with the legislation in force.</p>
9	2.3.3. Submission of Annual Report to the Board of Auditors	<p>COMMENT:</p> <p>This recommendation will be taken into account in the future.</p>

No.	NOTE	ANP RESPONSE
10	2.4 Summary Analysis of Financial Statements	We understand and agree with the observation.
11	2.4.1 Balance	We understand and agree with the observation.
12	2.4.2. Income Statement	We understand and agree with the observation.
13	2.4.3. Statement of Cash Flows	We understand and agree with the observation.
14	2.5 Evaluation of the Internal Control System	<p>COMMENT: The ANP highlighted some observations in Table 6 – Weak Points in the Internal Control System, to which it responds as follows:</p> <p>1. “Overall Organization and Presentation of Accounts”: “The ACCPAC accounting system does not permit obtaining extracts of current account by supplier”</p> <p>COMMENT: We agree that, during the audit, the staff of ANP were not able to produce such information for the auditor. This was due to the fact that employees meet still receiving training on this specific functionality of ACCPAC, mainly because the ANP had not yet felt the need to produce this information regularly at that date. Nevertheless, necessary features are already installed in the software for producing this information. Following the request of the auditor through this particular observation, and with the assistance of the software vendor, the sample was easily produced. We gathered a sample transaction for the seller under Annex 1 report.</p> <p>2 “Cash”:</p> <p>a. “Lack of adequate segregation of duties between accounting entries for invoices and making payments (made by the same employee)”</p> <p>b. “Lack of adequate segregation of duties between the entry of invoices and making payments to local suppliers, completion of bank reconciliations and control and supervision of bank accounts (performed by the same employee)”</p> <p>COMMENTS: We understand and agree with the observation about the absence of the functions mentioned above. The ANP will consider and evaluation solutions to these two observations available in the ACCPAC accounting system.</p> <p>3. “Personnel”</p> <p>a. “Deficient functioning of the registration system of attendance”</p> <p>COMMENT: The ANP has tried to create a mechanism to prevent the malfunction of its system to record attendance. The following procedures were implemented:</p> <ul style="list-style-type: none"> • The ANP uses three machines to control attendance. Two such devices are installed in the main building and one in the downstream building. The three devices can connect and synchronize with each other, which means that the staffers can register their arrivals and departures in any of these three devices, regardless of where they are. The devices record the first arrival of the staffer to work at ANP. Thus, the record made in the apparatus does not prevents the staffer from registering his/her input in any of the other two devices. In the event of malfunction, for any reason, of the apparatus, staff records can still be retrieved through the online Lotus Notes system. This system automatically records when staffers log on to their computers (laptop or desktop). • The staffer that processes payrolls should confirm the attendance of through information kept on the server. If staffers are absent for reasons of training, work trips, conferences and/or other authorized absences, these facts will be noted in the Excel sheets. This task must be performed manually, as the control devices can only record physical attendance in the office. Moreover mention that information kept on the server must be

No.	NOTE	ANP RESPONSE
		<p>transferred to the Excel sheets to allow noting the late arrival of staff in the office, with confirmation with the respective supervisors, before Human Resources takes any action in accordance with the Policy on Absence and Working Hours.</p> <ul style="list-style-type: none"> • Despite our comments above, the ANP took note of the observations contained in the Audit Report and will continue to monitor the performance of the control apparatus of attendance in order to implement future improvements. <p>b. Lack of segregation of duties:</p> <p>The ANP recognizes the merit of this observation, its organizational structure and the role assigned to the employee who processes the payroll of wages in the respective Position Description (PD), results that that official is responsible for monitoring the attendance of employees and executes paying salaries accordingly. However, this is not the case. In fact, the system has been properly implemented and confirmations of the registries system are executed with the direct supervisors and, as well, direct confirmations from other supervisors regarding the attendance of respective subordinates.</p> <p>The ANP will take into account this observation during the continuous evaluation of the system, with a view to its improvement in the future and in line with the increase in the number of employees.</p> <p>4. "Procurement"</p> <p>a. "Existence of procurement procedures performed by a single employee (lack of segregation of duties)"</p> <p>COMMENT:</p> <p>This issue was discussed by the management following the comments of the External Auditor for the year 2012. ANP updated its organizational structure to establish that Procurement will be under the Director of Administration.</p> <p>Thus, the Director of Administration will oversee the daily tasks of the person Responsible for Procurement and shall note and approve any procurement processes with prior approval of the Directors of the functional area ("<i>line directors.</i>") In this respect, see attached ANNEX 2, the description of the position of Director of Administration and two examples of segregation of duties between Supply and Logistics Officers, Chief Administrative Officer and other officers.</p> <p>Also attached is the updated Organizational Structure of ANP as ANNEX 3.</p> <p>b. "Realization of spending on the purchase of airline tickets and accommodation using a single source"</p> <p>COMMENT:</p> <p>Given that a number of employees of ANP travel a lot due to the nature of their mandates, ANP was of the opinion that having only one supplier for flights and accommodation was a highly efficient, workable and timely response system. Cases of change of dates for any legitimate reason, are frequent, so this operation resorting to only one supplier proves extremely efficient. Moreover, with a view to reducing the risk of overbilling and collusion, the ANP has always directly consulted to the websites of suppliers to compare prices for accommodation and airfare. If we conclude that prices are unreasonable, ANP asks the vendor about it.</p> <p>Gathered under ANNEX - 4, a sample email message concerning information related to prices of airline tickets obtained from the travel agency and the consultation ANP performed on the Internet. So, will in future a monitoring procedure will be applied directly to evaluate possible changes designed to improve the system in line with the increase in the number of employees and frequency of travel.</p>
15	2.6 Bank Accounts	<p>We understand the observation.</p> <p>1. "Not in the financial statements of the ANP bank account open in Hong Kong Shanghai Banking Corporation in Singapore, for the deposit of proceeds from the JPDA."</p> <p>COMMENT:</p> <p>We have taken note of the observation. This subject had been cited in the external audit report prepared by the auditing firm Merit and Partners. Please keep in mind that the ANP will not be the ultimate beneficiary of the funds. These are "in transit" for a period of 30 days only, after which they are transferred to bank accounts of the two States. Prior to the distribution of oil revenues to the two states, they take note of the amounts to be paid each</p>

No.	NOTE	ANP RESPONSE
		<p>month. Additionally, in meetings of the Joint Commission, the ANP always provides updated information about the handling of accounts and accumulated funds that have been distributed. Furthermore noted that Timor-Leste is one State which complies with the requirements of the EITI (Extractive Industries Transparency Initiative Extractive). These receipts are also included in the EITI annual report, which usually hires third parties to effect reconciliation of revenues received and paid respectively. As recommended by the EITI auditor, this receipt should be audited prior to the distribution of funds to states. Notwithstanding the above, the ANP took note of this recommendation and this bank account has now been audited by the Single Auditor, being included in future financial audits of ANP (2013 audit).</p>
16	2.7 Documental Verification of Expenditures	
17	2.7.1 Recruitment	<p>2. Description of Position:</p> <p>The ANP recognizes that Position Descriptions (PD) are announced without having been formally approved. However, prior to publication of the announcement, the position description takes its final version after consultation with Human Resources, direct supervisors, their respective directors and the President. This means that all parties agreed to the version of PD, whose final approval is given simultaneously with the signing of the contract. The agreement is confirmed between the parties in writing via email messages. The final version agreed by all stakeholders is used for the purpose of publication of the notice. In other words, the practice that has been followed by ANP is that DPs (final version, which is used for the purpose of publication of notices) are formally adopted with the approval of other essential documents, such as contracts of employment, confidentiality agreements, letters of welcome and Position Descriptions, at the time that candidates are selected and confirm their acceptance of the offer of ANP.</p> <p>Position of the ANP:</p> <p>The recommendation of the Board of Auditors states that the approval of the Position Description must occur prior to the publication of the notice. The ANP recognizes the merit of this recommendation, which it will incorporate the same in future recruitment processes.</p> <p>3. Appointment of members of the JAC (<i>Júri da Análise de Candidaturas / Panel to analyze applications</i>):</p> <p>The creation of the JAC (Panel to Analyze Applications) is based on the ANP Recruitment Policy, specifically under Article 9.3 “Panel to analyze applications” (JAC). This provision states that the JAC should be composed of three (3) members: one from the department that convened the panel and in which the position exists, one from the F & HR department and one from another department. Furthermore, to ensure a good balance in the composition of the members of the JAC, the department of F & HR also asked the President of the ANP to appoint an additional member of the JAC to join the other 3 members to conduct the recruitment process and selection.</p> <p>However, the ANP recognizes that appointing members of the JAC after the publication of notices is current practice. One of the main reasons for adopting this practice has to do with the frequent travels of core and technical staff of the ANP, which are often not planned long in advance, which hinders the establishment of the JAC before the publication of the notice.</p> <p>Position of the ANP:</p> <p>Notwithstanding the practice described above, we have taken note of the recommendation of the Board of Auditors for future evaluation and improvement of procedures.</p> <p>4. Basis for choosing Applications to include on the short-list in light of criteria defined in the Position Description.</p> <p>The development of a short-list of candidates is a stage through which a set of candidates is pre-qualified for conducting interviews. Our experience accumulated over the last six years shows that numerous applications are submitted for a particular position that ignore the specific academic requirements, qualifications and professional experience. Thus, a significant number of applications is not even close to meeting the requirements / experience qualifications for specific positions. Against this backdrop, the ANP has adopted the mechanism of short-listing in the recruitment process to ensure that the resources allocated to the process can truly assess the skills and qualifications, as specified in the job posting.</p>

No.	NOTE	ANP RESPONSE
		We are very grateful for the recommendation on this matter. It is important to note that we introduced, in the recruitment process for 2013, an improvement in the process of preparing short-lists. This enhancement aims to ensure that all records from the Preparation of Short-Lists, including the reasons for the exclusion of a candidate, are in the final report of recruitment for evaluation and final approval. The introduction of this method aimed to the transparency of the process and at the same time, is a further step in order to avoid subjective assessments by members of the JAC. Attached under ANNEX - 5 an example of registration of short-list and summary of short-listed.
18	2.7.2 Personnel Expenses	
19	2.7.2.1 Salaries and Wages Expenses	<p>We have taken good note of the observation.</p> <p>Please note the following:</p> <p>a. The ANP was created under Decree-Law no. 20/2008. Article 15.2 of this DL provides that working conditions should be agreed by the parties within the limits of the employment system and for administrative and financial autonomy of the ANP. Nevertheless, since 2008 the salaries of all employees have been defined by reference to the salary of the President and Single Auditor of ANP. In this respect; it is recalled that the contracts by the President and Single Auditor were scrutinized by His Excellency, the Secretary of State for Natural Resources, as the member of the Government responsible for ANP at that time. Members of the Governing Council who acted on behalf of the employer in to sign these contracts were Francisco da Costa Monteiro and Vicente Pinto.</p> <p>b. The Timor Sea Treaty, which created the JPDA (Annex D, in accordance with the Article 6(c)(ii) of the Treaty), provides for the powers of the Joint Committee of the JPDA. Our records show that, since the creation date of the Designated Authority (DA) (whose functions are exercised by the ANP under the Timor Sea Treaty), the Joint Commission has never had to issue approvals relating to the Designated Authority (including on salaries and benefits). Besides, this has always been the practice. In this regard, please refer to ANNEX - 6 which includes the Proceedings of the First and Second Meetings of the Joint Commission held in May and June 2002, respectively.</p> <p>Despite the reality and facts described above, the ANP, as a public institute of the Democratic Republic of Timor-Leste, continues to be subject to any policy decisions to the contrary in the future, in other words, it is up to the political powers (and not the ANP) to decide which decisions of the ANP (including the salary policy) should be subject to approval of supervising entities or others. Furthermore, the annual budgets of ANP (which contain the personnel costs) are subject to prior approval of the Joint Committee.</p> <p>c. The eighth paragraph of Section 2.7.2.1 of the Audit Report indicates that “In practice, the salaries of civil servants can be 5.2 times (422%) higher than those in the public administration of Timor-Leste.” For this statement, the ANP would like to request the following: Given the nature of oil industry, of which the ANP is unavoidably a part, and the important role that ANP plays in the process of the State of Timor-Leste and the fact that salary issues are politically sensitive, the ANP requests the removal of this statement. Indeed, ANP believes that the comparison of the salaries of its employees with those of public administration, not only does not express any wrongdoing, but does not appear to be in the scope of the objectives of this audit. Salaries are known to the overseer [Minister of Petroleum], which will be free to take the political decision to understand in this matter.</p>
20	2.7.2.2 Expenses for Contribution to Pension Funds	<p>COMMENTS</p> <p>1. The fifth paragraph of section 2.7.2.2 of the Audit Report indicates that <i>“Spending on these contributions are reflected in the Financial Statements as Superannuation and amounted to \$225,741 in the year 2012.”</i> Please note that the term “Superannuation” refers only to international officials of ANP and, indeed, the international staff Superannuation is 9% of gross salary. Attached in ANNEX - 7, are two examples (from a universe of 7) salaries of international staff.</p> <p>2. Spending incurred for the contributions to the Pension Fund are further substantiated by the following:</p> <p>a. The Pension Fund is part of the remuneration package used to attract and retain potential employees in the service of ANP for a three-year contract.</p>

No.	NOTE	ANP RESPONSE
		<p>b. The ANP Pension Fund was established before the creation of the ANP itself, that is, in the time of TSDA (Timor Sea Designated Authority). When TSDA was replaced by ANP, most employees were transferred from the former to the latter, and consequently, the existing compensation package at the date of transfer (including contributions to the Pension Fund) was maintained.</p> <p>Accordingly, and pursuant to Article 15.2 of DL 20/2008, the ANP decided to keep what it “inherited” the TSDA and adjusted, where possible and appropriate, benefit levels existing for Timor-Leste nationals when ANP was created. In our opinion, these contributions to the Pension Fund should be viewed as part of the remuneration package offered by the ANP, which was then approved by the Governing Council taking into account the factors and circumstances existing at the time, such as the labor market in Timor-Leste, the specific characteristics of the oil industry, the decision of the Government to attract the best prepared and most qualified Timorese nationals (which were rare at the time) who could otherwise be hired by international organizations who, at the time, offered the best terms of payment in the country.</p> <p>3. The temporary absence of an Investment Policy of the Pension Fund is due to the following: Ideally, the ANP should establish an Investment Policy of the Pension Fund as provided in the ANP Manual referred to in paragraph 6 of section 2.7.2.2 of the Audit Report. However, according to the vision that the ANP had of the country, essential elements to regulate a Pension Fund were not yet available. Thus, having assumed that the definition of a complete investment policy of the Pension Fund could occur at a later stage in order to ensure competitive and attractive remuneration packages for the Timorese nationals, taking into account the Timor-Leste labor market described above, ANP decided to maintain the Pension Fund for Timorese nationals who had been hired during the time of TSDA.</p> <p>4. Our comments to the observation that the wage benefits must be approved by the Joint Commission and the government member responsible for oil sector are the same as we gave in response to Section 2.7.2.1 of the Audit Report.</p> <p>5. Regarding the amount of the percentage contribution rate to the Pension Fund calculated on gross salary and the fact that value is 100% supported by the ANP, our comments are as follows: The ANP believes that the remuneration package offered to its employees may be revised from time to time, as the labor market of the petroleum sector in Timor-Leste becomes increasingly competitive and legal instruments related to labor matters will develop over time. For example, the ANP conducted a market survey in 2010 and found that the remuneration package offered to its employees is very competitive at the national level, which is why it has not been changed since that date.</p>
21	2.7.2.3 Expenditures on Other Staff Benefits	<p>1. The seventh paragraph of section 2.7.2.3 of the Audit Report observed that “full payment (to 100%) of expenditure on healthcare by the ANP, with no maximum limit for expenses incurred by employee/year without participation by employees, can lead to excessive utilization of this benefit by employees.” Our explanations and comments on this subject are as follows: The ANP Medical Assistance is considered part of the benefits that are part of the remuneration package offered to the most experienced and best qualified Timorese nationals in the oil industry. At the time that this benefit was created (2008), the goal was to provide national and officials and their closest relatives, the possibility of access to medical care that could not be provided in local clinics run by Timorese. In addition, dental work and other work that could be considered cosmetic and, therefore, does not fall under the definition of basic medical services, are excluded from the scope of medical care covered by the ANP. Attached under ANNEX - 8, is a copy of medical procedures that ANP has always adopted. Despite this, the ANP recognizes that its health care benefits are more advantageous when compared with the benefits offered by other entities in Timor-Leste, but the truth is that they are far from being considered “luxurious.” We also noted the recommendation of the auditor in order to create a system in which employees should also contribute to the costs incurred for medical care instead of them being borne entirely by ANP. In fact, since 2012 the ANP itself has identified the need for changes in this area in particular, as a result of a comprehensive evaluation conducted throughout the year on all parameters of contributions, such as cost, sustainability, trends in medical services in the country and the conditions of the local labor market. So at the end 2013, the Governing Council decided that medical costs must be borne directly by employees, which may be reimbursed up to \$50 per employee per month.</p> <p>2. Regarding the observation in the ninth paragraph of section 2.7.2.3, which states that “<i>the annual holiday trip that employees have the right, under ANP policy, the corresponding expenditures amounted to \$321,399,</i>” please note that this amount also includes expenses incurred for travel by seven</p>

No.	NOTE	ANP RESPONSE																																		
		<p>international staff. Under the ANP policy for expatriates' travel, Annual Trip includes full payment of airline tickets roundtrip to their respective country of origin. Attached is ANNEX - 9, ANP Policy for expatriates and an example of travel expenses incurred by expatriates.</p> <p>Regarding the observation in the last paragraph of point 2.7.2.3 of the Audit Report, according to which the payment for annual trips by national employees is unjustified, our comments are as follows:</p> <ul style="list-style-type: none"> The responsibilities, tasks and objectives committed to national staff are exactly the same as those required of expatriates. In fact, during the years subject to this audit (2010 -2012), all ANP senior staff were Timorese nationals, who faced enormous challenges, not only in the carrying out tasks, but also from the point of view of making decisions, often far more complex and difficult than the challenges faced by international staff. Given the huge amount of work that local officials have been given, the ANP decided at the beginning of 2008, to extend the benefit of the annual trip to local staff. Please note that, at that time, local staff had little or no opportunity to enjoy leisure time, except for the nearest and cheapest destination (Bali). Costs incurred by ANP for this benefit attributed to local staff are not even close to the costs incurred for the same benefits for international staff. <p>4. Regarding the note about the entities that must approve the policy on wages and benefits of employees of the ANP, refer to our comments on section 2.7.2.1 above.</p> <p>Despite our commentary above, the ANP has noted the observations of the Audit Report for the purposes of future evaluations and better alignment and improvement of its policies.</p>																																		
22	2.7.3 Administration and General Expenses	<p>COMMENT:</p> <p>Table 3 - General and Management Expenses - 2010 to 2012 contained in the Audit Report is incomplete for the year 2010, more particularly as regards the expenditure incurred for Security, Office Supply, Printing and Advertisement.</p> <p>The correct information for the year 2010 is in the following table:</p> <table border="1" data-bbox="898 815 1727 1474"> <thead> <tr> <th data-bbox="904 820 1503 858">General and Management Expenses</th> <th data-bbox="1503 820 1720 858">2010</th> </tr> </thead> <tbody> <tr> <td data-bbox="904 858 1503 896">Consultants</td> <td data-bbox="1503 858 1720 896">1,079,551.00</td> </tr> <tr> <td data-bbox="904 896 1503 935">Training, education and conference expenses</td> <td data-bbox="1503 896 1720 935">748,876.00</td> </tr> <tr> <td data-bbox="904 935 1503 973">Business Travel</td> <td data-bbox="1503 935 1720 973">287,082.00</td> </tr> <tr> <td data-bbox="904 973 1503 1011">Telephone and Communications</td> <td data-bbox="1503 973 1720 1011">119,084.00</td> </tr> <tr> <td data-bbox="904 1011 1503 1050">Repairs and maintenance</td> <td data-bbox="1503 1011 1720 1050">63,692.00</td> </tr> <tr> <td data-bbox="904 1050 1503 1088">Organizational promotion</td> <td data-bbox="1503 1050 1720 1088">50,678.00</td> </tr> <tr> <td data-bbox="904 1088 1503 1126">Motor vehicle expenses</td> <td data-bbox="1503 1088 1720 1126">45,309.00</td> </tr> <tr> <td data-bbox="904 1126 1503 1165">Electricity</td> <td data-bbox="1503 1126 1720 1165">32,535.00</td> </tr> <tr> <td data-bbox="904 1165 1503 1203">Subscription & memberships</td> <td data-bbox="1503 1165 1720 1203">29,546.00</td> </tr> <tr> <td data-bbox="904 1203 1503 1241">Security</td> <td data-bbox="1503 1203 1720 1241">27,115.00</td> </tr> <tr> <td data-bbox="904 1241 1503 1279">Minor equipment</td> <td data-bbox="1503 1241 1720 1279">18,272.00</td> </tr> <tr> <td data-bbox="904 1279 1503 1318">Office supplies</td> <td data-bbox="1503 1279 1720 1318">17,716.00</td> </tr> <tr> <td data-bbox="904 1318 1503 1356">Printing & advertising</td> <td data-bbox="1503 1318 1720 1356">17,204.00</td> </tr> <tr> <td data-bbox="904 1356 1503 1394">Bank charges</td> <td data-bbox="1503 1356 1720 1394">5,355.00</td> </tr> <tr> <td data-bbox="904 1394 1503 1433">Other (*)</td> <td data-bbox="1503 1394 1720 1433">80,071.00</td> </tr> <tr> <td data-bbox="904 1433 1503 1471">Total</td> <td data-bbox="1503 1433 1720 1471">2,622,186.00</td> </tr> </tbody> </table>	General and Management Expenses	2010	Consultants	1,079,551.00	Training, education and conference expenses	748,876.00	Business Travel	287,082.00	Telephone and Communications	119,084.00	Repairs and maintenance	63,692.00	Organizational promotion	50,678.00	Motor vehicle expenses	45,309.00	Electricity	32,535.00	Subscription & memberships	29,546.00	Security	27,115.00	Minor equipment	18,272.00	Office supplies	17,716.00	Printing & advertising	17,204.00	Bank charges	5,355.00	Other (*)	80,071.00	Total	2,622,186.00
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No.	NOTE	ANP RESPONSE
23	2.7.3.1 Procurement Procedures	<p>We have taken note of the observation.</p> <p>COMMENT:</p> <p>The Decree-Law that created the ANP allows it to develop and adopt internal regulations applicable to its daily operations (Article 8(c) of DL 20/2008). In this sense, ANP Procurement Policy and Procedures are based on international best practices and are in accordance with the Legal Regime of Public Procurement approved by the Government. In our opinion, the combination of these two criteria is fundamental in that, firstly, it ensures compliance with national internal rules, and on the other hand, allows ANP to assimilate international best practices through “leveraging” its status as a state agency that handles players in the oil and gas industry, which are known worldwide for adopting best practices from the point of view of corporate organization.</p>
24	2.7.3.2 Expenditures on Travel	<p>1. Regarding the observation that the use of direct award for the purchase of airline tickets is contrary to the internal rules of the ANP, our comments are as follows:</p> <p>Despite recognizing the merits of the suggested changes to the method of contracting these services, allow us to present the following clarifications: Despite the procurement procedures expect that ANP obtains more than one quotation for purchases exceeding \$500, the truth is that in Timor-Leste, there is only one travel agency authorized by the International Air Transportation Association (IATA). Insofar as there are no other local travel agencies licensed by IATA, it is extremely difficult to find other agencies which can respond to ANP’s needs, whose employees travel very often and need assistance 24 hours a day. When, in the future, there are more travel agencies licensed by IATA in Timor-Leste, the ANP will adjust its procedures in this matter accordingly.</p> <p>To date, the ANP has resorted to two travel agencies services (Harvey World Travel and Ratna Travel) for the purchase of airline tickets and accommodation for the simple reason that these are the only local travel agencies with the capacity to meet ANP’s needs, such as flexibility in changing schedules and destinations, upgrades and 24-hour assistance. Moreover, these agencies offer flexible payment conditions, which ANP to pay the bills one month after the completion of the journey.</p> <p>Also in this regard, the ANP like to stress that the provision in section 12:20 (Direct Contracting) of the ANP Procurement Policy allows this entity to use the direct contracting of suppliers in certain conditions.</p> <p>Similarly, we call your attention to section 7.1 on “Value of Money” and section 7.5 “Efficiency and Effective” relating to procurement procedures, which determine that the decision to purchase goods and/or hiring services should not only be based on the criterion of price, but also according to criteria of quality of goods and/or efficiency of the services concerned.</p> <p>2. Airline Tickets to Brisbane</p> <p>COMMENT:</p> <p>The ANP clarifies that the scenario described in the Audit Report does not constitute a reissue of airline tickets, but an upgrade from economy class to business class, which is justified in view of the presence in meetings at the highest level, as were the cases of meetings of the Joint Commission and the Sunrise Commission held in Australia.</p> <p>This has in fact been the practice followed by the ANP since its inception and was “inherited” from the practice then followed by TSDA. However, ANP admits that in this particular case, the travel department made a mistake by not purchasing the tickets as early as October as business class and, as a result, the ANP had to later ask to upgrade the tickets, whose amount was also inflated by the fact that the meetings took place in December, as we know, is summer in Australia.</p> <p>Attached in ANNEX - 10 are copies of communications and invoices (including itinerary) for the upgrade of the air tickets.</p> <p>3. Table 5 – Payments to Travel Agencies - 2010-2012</p> <p>COMMENT: ANP detected discrepancies in the figures presented compared with internally available information. To verify the correct values, please refer to the report of suppliers attached in ANNEX -1.</p>

No.	NOTE	ANP RESPONSE
25	2.8 Documental Verification of Income	
26	2.8.1 Financing Model	We understand and agree with the observation.
27	2.8.2 Exchange Development and Service Fees	We understand and agree with the observation.
28	2.8.3 Transfers from the State Budget	COMMENT: The proposed budget for the ANP indicates the activities which will be developed in each fiscal year. The ANP will however draw the attention of the Minister to this observation. However, we note that it is for the Minister to take it into account.
29	2.8.4 Interest on Bank Deposits	We have taken note of the observation. COMMENT: ANP wants to invest its assets. However, given the current absence of a law on investment of public institutions, the ANP has kept its assets deposited in bank accounts. Once this law exists, and since the ANP has now been encouraged by the Board of Auditors on this, this issue will be evaluated in future decisions.
30	2.8.5 Other Income	We understand and agree with the observation.
31	2.9 Judgments on the Financial Statements	We understand and agree with the observation.