

# **REPORT ON THE EITI WORKSHOP FOR PARLIAMENTARY SELECT COMMITTEE ON MINES AND ENERGY 8<sup>TH</sup>-10<sup>TH</sup> JUNE, 2007 SWEDRU**

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## **1.0 Introduction**

The Ministry of Finance and Economic Planning (MOFEP) and the EITI National Steering Committee (NSC) jointly organised EITI sensitization workshop for the Parliamentary Select Committee on Mines and Energy the 9<sup>th</sup> June 2007 at Swedru in the Central Region. The theme for the workshop was 'Institutionalizing EITI in Ghana'.

2. The objectives of this workshop were to:

- ❖ Sensitize Parliamentarians on the concept of EITI
- ❖ Sensitize Parliamentarians on the need to support legislation on EITI
- ❖ Share with the Parliamentarians the first EITI Financial Audit Report undertaken by the initiative in Ghana, and
- ❖ Solicit their inputs and support in all legislative processes of the initiative.

3. The workshop started at about 9.30 am and was chaired by the Hon. Gifty Kusi Eugenia, MP for Tarkwa Nsuaem Constituency who is also the Chairperson for Parliamentary Select Committee on Mines and Energy. The opening address was delivered by the Hon. Deputy Minister of Ministry of Lands Forestry and Mines, Madam Rita Iddi Tani.

4. The workshop was also attended by representatives of the Ministry of Finance and Economic Planning, Ministry of Lands, Forestry and Mines, the Minerals Commission, Chamber of Mines, Office of the Administrator of Stool Lands, Civil Society represented by Integrated Social Development Centre (ISODEC) and GTZ.

## **2.0 Opening Address**

5. In her welcome address the Hon. Deputy Minister expressed her gratitude to the Parliamentarians for honouring the invitation to attend the workshop. She expressed optimism that by the close of proceedings of the workshop, Members of Parliament present will have adequate information on the activities and objectives of EITI in Ghana. She was also very hopeful that at the appropriate time Parliamentarians will be ready to support a Bill on EITI when it is lead before them. She emphasized the need to institutionalise the EITI through

legislation to ensure that the EITI and for that matter the Independent Audits being carried out go beyond the present administration.

### **3.0 SUMMARY OF PRESENTATIONS**

#### **3.1 Presentation 1 – Concepts, Principles and Benefits**

6. The first presentation was by, Mr. Amponsah Tawiah of the Minerals Commission, he called on the Parliamentarians to support the passing of a EITI Legislation for the Ghana EITI. He added that giving EITI the relevant legal backing will ensure that mining companies comply with structures in place to improve transparency. It will also make access to relevant data from the industry easier.

7. He mentioned that EITI is a voluntary initiative supported by governments, companies, investors, and civil society organisations. That Ghana signed on to the initiative in 2003 after it was officially launched in Johannesburg, South Africa by the then Prime Minister of the UK Tony Blair. He noted that the initiative focuses on company payments and government revenues with NGO's acting as watchdogs of both parties. The objective of the initiative is to provide transparency over payments and revenues in the extractive sector.

8. He concluded the presentation by taking members through the Performance Chart of EITI implementing countries and showed how Ghana was faring after it had published its first Audit Report conducted by an Independent Aggregator.

#### **3.2 Presentation 2 – Mining Companies contributions to Host Communities: Issues.**

9. The second presentation was by Mr. Sulamanu Koney of the Ghana Chamber of Mines. In his presentation he stated the Chamber's position on the ongoing discussion of royalty disbursement the District Assemblies. He stated that the Chamber has been advocating for the royalty to be increased from the current level of 10% to 30% this he argued will increase resources available to affected communities for development projects.

10. He expressed the Chamber's concern about agitation to increase the 3% royalty currently paid by Mining Companies to host governments especially in times of increasing world market prices. In his view before any move is made to revise the rate upwards it is critical to consider also the fact that in the mining sector there is usually a positive correlation between production cost (input prices e.g fuel equipment) and profitability. Therefore, the higher the profits the higher the production cost.

11. According to him over the years 2003-2005 mining companies have contributed to the host country to the tune of \$ 4,656,248, \$3,610,305, \$3,101,959, \$2,197,771, and \$1,499,503. These monies he stated have gone into sanitation, health, electricity, housing and education. He added that mining companies also paid various amounts to communities and governments as property rates, dividends and corporate tax among others.

12. He summed up the presentation by drawing attention to the indirect contribution mining companies make to communities and the country at large and that any legislation that will be passed should adequately provide for all key stakeholders.

### **3.3 Presentation 3: Good Governance of the Mining Sector: Role of Parliament**

13. In his presentation Mr. Martin Ayisi of the Minerals Commission, spoke on the critical role good governance principles could play in promoting transparency in the mining industry. He stated that it was important for key government agencies including the IRS, BOG and CEPS to acquire the requisite skills needed to comprehend the operations of the mining industry. He emphasised that a good working knowledge of the sector will ensure that proper accounting standards are adhered to, it will also enhance their ability to understand terminologies used in the reporting, accounting and operations of the mining companies.

14. He touched on the role Parliament should play in ensuring true transparency for the sector. According to him Parliament has the responsibility of ensuring that good governance and accountability are instilled into the mining industry.

15. He concluded by challenging Parliament to start the process by:

- Ratifying the Mining Lease Article 268 of the constitution

- Getting Minerals Commission to submit Annual Report to Parliament in accordance with Section 17 of Minerals Commission Act of 1993 Act 450
- Have sessions with the Sector Minister where he will be expected to answer questions
- Use the investigation and Enquiry powers provided under article 103 (3) to probe for information from the sector institutions and agencies.

### **3.4 Presentation 4: First EITI Financial Audit Report**

16. The First EITI Financial Audit Report was presented by Mr. Kwaku Boa- Amponsem of BOAS & Associates who is also the Independent Aggregator. The First EITI Audit covered the period from January to June 2004 and the audit was conducted on payments, receipts, disbursements and utilization of funds. He added that the audit was for mining companies that were in active production in 2004 and contributed about 99% of the minerals royalties in the first half of 2004.

17. He shared with the Parliamentarians the findings of the audit. The findings covered the following areas:

- fineness/purity of gold,
- pricing,
- exchange rate,
- inter sectoral collaboration,
- supervision,
- capital gains tax,
- shortfalls in disbursements and
- delays in royalty disbursement.

18. He also discussed associated recommendations and the challenges the audit faced. According to him accessing information from both mining companies and key government agencies (CEPS, IRS,) was one of their biggest challenges and encourage Parliamentarians to support EITI call to back the initiative by law.

### **3.5 Presentation 5: The Role of Civil Society in Ensuring Transparency in the Extractive Industry .**

19. The Civil society presentation was done by Dr. Steve Manteaw of ISODEC. The presentation touched on the positive and negative effects of mining on the country. He added further that EITI seeks to address the issue of Social Accountability in the sector by:

- Improving revenue transparency
- Eliminating corruption
- Ensuring companies comply with statutory payment requirements
- Judicious use of extractive sector revenue, to reduce poverty especially in mining communities, and to promote national development.

20. However, he criticized the initiative for not being able to address the following concerns:

- Payment of a fair share of the dividends in the extractive sector to host governments.
- Does not seek to address social and environmental concerns.
- Human rights abuses by companies, working in tandem with state security apparatus.
- Transparency in contract negotiations with companies. Does not seek to remove the practice of embedding in contracts, confidential clauses, through which the national interest could be compromised.

21. He underscored the role of Civil Society's involvement in the EITI process which is in fostering democratic debate and promotion of national ownership of development initiatives. He called for the need to push the frontiers of the EITI to bring on board all other legitimate concerns not captured in the current framework, including other dimensions of transparency, such as: social/environmental cost and compensation, the legal and regulatory regime and contracts.

### **4.0 OBSERVATIONS**

22. The Honorable Parliamentarians commended the presenters and noted that the EITI has brought to the fore critical issues affecting the mining industry in Ghana. The following

observations in the areas of royalty payment and disbursement, EITI legislation were made by the Honourable Parliamentarians at the workshop.

#### 4.1 Royalty Disbursement

- On the issue of payment of royalties to District assemblies, the Honourable members wanted to know **the rate disbursed** to District Assemblies before the current Administrative arrangement was put in place. They observed that the current 10% of royalties disbursed to District Assemblies (DA) was reached between 1995-96 when the Bank of Ghana (BOG) had a need to reconcile its BOP deficit. The issue was address by Mr. Amponsah.
- In response to the issue of minerals royalty disbursement, Mr Amponsah from the Minerals Commission explained before 1995 royalties where paid into government's consolidated accounts and disbursed, however after several deliberations between key stakeholders an Administrative Fiat was initiated by the Ministry of Lands Forestry and Mines in accordance to section 267(6) of the 1992 constitution. Part of the Administrative Fiat resulted in the setting up of the Minerals Development Fund, and the use of the rate 10% to disburse only to districts in mining communities as some sort of compensation.
- Parliamentarians were also concerned about **what was** and what **can be done to increase the woefully inadequate sums** currently paid to District Assemblies in the mining communities.
- What checks and balances are in place to ensure that District Assemblies' share of the royalties for community development projects are invested especially in projects that will serve as an alternative source of livelihood after the minerals are all exhausted.
- What steps can Government take to ensure that mining companies pay realistic rates as royalties rather than sticking to always paying the barest minimum (3%) as royalties when the rate is a range of between 3%-6%?

## 4.2 EITI Legislation

- How are concerns of EITI addressed in the existing Minerals Act and if not what measures are in place to include them
- Why cant the minerals Act be amended to address the concerns of EITI
- What is EITI seeking to address which is not already catered for under the various existing laws e.g. Freedom of Information, Minerals Act etc in other words does the country not have existing laws that can address the concerns of EITI?
- Why is EITI Ghana focusing on only the mining sector rather than the extractive Industry as a whole i.e. including Forestry, Salt , gas etc
- When will the long over due regulations for the mining sector be ready?
- What steps can government take to ensure that exploration licenses granted to Ghanaians do not end up being sold to foreigners?

## 5.0 RECOMMENDATIONS

23. The following recommendations were made by the EITI Aggregator in connection with his findings, they are:

- a) It was recommended that measures should be taken to form a strong culture of sharing information among the key government agencies including the Minerals Commission, IRS and CEPS. This will provide an avenue of agencies to easily cross-check and validate data submitted to them by the various agencies by the companies. Additionally, it will give the IRS prompt data to calculate capital gains allowance when concessions change hands. Finally the IRS can easily verify from CEPS the values placed on mining equipment by the companies for calculating capital allowance.
- b) It was also recommended that the IRS collaborate more with CEPS to verify figures and other details provided as cost of equipment and other inputs used by the industry.
- c) CEPS officials be given the mandate to counter sign dispatch forms accompanying minerals produced by the mines to increase credibility of the data provided.
- d) It was also noted by the Aggregator that the present formula used by the IRS in computing the royalty is so complex that there is doubt as to whether IRS officials has the requisite capacity to effectively apply the formula . It therefore recommended that the royalty computation formula be revised and should be indexed to the International Price of Gold.

## **6.0. CONCLUDING REMARK**

24. In his concluding remarks the Chief Director noted that the EITI is gradually evolving the life of its own and that the EITI principles of transparency and accountability is spreading to other sectors such as construction, defence and health.

25. He identified capacity building for the Revenue Agencies i.e IRS and CEPS as key to realising maximum revenue from the extractive sector. He reminded participants of the workshop of the availability of resources to be used for capacity building of institutions undertaking the EITI Program.

26. He tasked the Ghana EITI Secretariat to develop the necessary capacity building program to attract the necessary financial support from government and donors.

27. The Chief Director thanked the honourable members for attending the workshop and for their active participation.

28. The workshop was brought to a close at 3pm.

## **7.0 WAY FORWARD**

29. Following from the deliberations from the workshop the EITI National Steering Committee with its Secretariat are taking the following steps to initiate the legislation on the EITI, they are:

- The National Steering Committee and the Secretariat is to develop a Terms of Reference to engage a Consultant to study the Minerals and the Mining Act and the Financial Administration Act to come out with recommendations as to the way forward for the EITI legislation.
- Write to the Ministry of Lands, Forestry and Mines to initiate a joint Cabinet Memo with the Ministry of Finance and Economic Planning on the need for a new legislation for the EITI or incorporate the EITI principles into the already existing legislation.

30. The issue of the EITI legislation will further be discussed at the Western Regional Stakeholders workshop in Tarkwa on the 21<sup>st</sup> July, 2007.

31. On the issue of capacity which came up strongly at the workshop, the EITI Steering Committee has taken a serious note and the sub-committee of the Committee on Capacity Building is working on the capacity building program.

32. It must also be mentioned the National Steering Committee has a capacity building component of its work program which involves capacity building for Civil Society and Government Agencies relevant to Extractive Industries Revenue Management (IRS, CEPS, Office of the administrator of Stool Lands) on the EITI. The sub- committee of the Steering Committee on Capacity Building is planning the programme soon to be implemented.